PERSONAL RESPONSIBILITY
AND WORK OPPORTUNITY
RECONCILIATION ACT
OF 1996

H.R. 3734
PUBLIC LAW 104-193
104TH CONGRESS
Volumes 1 to 19

BILLS, REPORTS,
DEBATES, AND ACT

Social Security Administration
PERSONAL RESPONSIBILITY
AND WORK OPPORTUNITY
RECONCILIATION ACT
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H.R. 3734
PUBLIC LAW 104-193
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Volume 9 of 19

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DEBATES, AND ACT

Social Security Administration
Office of the Deputy Commissioner for
Legislation and Congressional Affairs
PREFACE

This 19-volume compilation contains historical documents pertaining to P.L. 104-193, the "Personal Responsibility and Work Opportunity Act of 1996." The books contain congressional debates, a chronological compilation of documents pertinent to the legislative history of the public law and relevant reference materials.

Pertinent documents include:

- Differing versions of key bills
- Committee reports
- Excerpts from the Congressional Record
- The Public Law

This history is prepared by the Office of the Deputy Commissioner for Legislation and Congressional Affairs and is designed to serve as a helpful resource tool for those charged with interpreting laws administered by the Social Security Administration.
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F. H.R. 1214, "Personal Responsibility Act of 1995," introduced March 13, 1995 (excerpts). This bill was developed by the three committees with primary jurisdiction (Committees on Ways and Means, Agriculture, and Economic and Educational Opportunities). In addition, the Committee on Commerce worked with Ways and Means staff to draft language for H.R. 1214 as it related to provisions within the Commerce Committee's jurisdiction including ineligibility of illegal aliens for certain public benefits, SSI cash benefits, and SSI service benefits. H.R. 1214 was considered as the base text for floor consideration of welfare reform legislation.


H. H.R. 1267, "Individual Responsibility Act of 1995" introduced March 21, 1995 (excerpts). This bill was offered as a Democratic substitute for H.R. 4/H.R. 1214 that maintained several key Republican welfare reform provisions while also keeping the Federal entitlement for cash benefits, school lunches and other social programs. It failed to pass the House on March 23, 1995 by a vote of 205-228.

1. H.Res. 117, Resolution providing for the consideration of the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence as adopted March 22, 1995. The resolution provided that debate must be confined to H.R. 4 and the text of H.R. 1214.


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1. H.Res. 321, Directing the Committee on Rules to report a resolution providing for the consideration of H.R. 2530--as introduced December 21, 1995
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America into a downward spiral of bigger government, higher deficits, more taxes, and a financially bankrupt Medicare system.

Or we can move America up to a brighter future, a future where our children and grandchildren are free from staggering deficits. A future where power flows from our States to Washington, and not the other way around. A future with a strong and secure Medicare Program.

Mr. President, I believe the choice is clear.

For this historic Republican Congress, the vote on the reconciliation bills will be a defining moment. It will be the moment when the American public will see that we are not business as usual. We are not the status quo. Rather, this Congress is one that keeps its promises to the American people.

There will be plenty of debate in the coming days, and I know the American people will be listening closely. Judging from what has been coming out of the White House lately, I know they will hear a lot of rhetoric, and a lot of scare tactics.

But I believe that in the end, they will see through this smokescreen, and they will see the truth. And the truth is that the Republican budget contained in this bill is a realistic, thoughtful budget blueprint for America. The truth is that it will ratchet down the deficit by roughly $30 billion a year during the next 7 years. The truth is that it will balance the budget in the year 2002. And the truth is that it is the only real honest budget plan before the American people.

The truth also is that a balanced budget means a brighter future for our children and grandchildren. Our national debt is now so huge that a child born in 1995 will pay more than $137,000 in taxes over his or her lifetime just to pay their share of the debt. We owe our children a far better future.

A balanced budget will create lower interest rates, which means that more Americans will be able to own a house, buy a car, or go to college, or to borrow money. Lower interest rates also mean business will have more money to invest and hire workers.

The truth also is that the American people are more able to decide how to spend their hard earned money than are Government bureaucrats.

And with the $245 billion tax cut contained in this bill, millions of American families will have more money to spend. Our $500-per-child tax credit will mean that over the coming years, families will have thousands and thousands of more dollars to spend on college tuition or braces for their kids.

We will include in the RECORD during the debate how much money will be coming to each State, such as my own State of Kansas. There are a lot of families with children. They are not rich. But a $500 tax credit—if you have two or three children, that is $1,500. They can spend it better on their families than any bureaucrat I know of in Washington, DC, or any Member of Congress, for that matter, on either side of the aisle.

By rewarding those who save and invest, our capital gains tax cut will also create jobs and opportunity.

There is an undeniable truth that the President has tried to ignore for months and months. And that is the fact that three of the President’s own Cabinet members tell us that if no action is taken, Medicare will be completely broke by the year 2002.

This bill makes the tough decisions necessary to preserve, protect, and strengthen Medicare. And we have been aided a great deal in this effort by the Presiding Officer, the Senator from New Hampshire, Senator GREGG.

We do it by slowing its rate of growth, and by giving seniors more options in selecting their health care.

And despite the phony talk you may hear of “cutting Medicare,” the Republican plan will increase Medicare spending from $4,800 per beneficiary in 1995 to $6,700 per beneficiary in 2002.

Let me repeat: The Republican plan will increase Medicare spending from $4,800 per beneficiary in 1995 to $6,700 per beneficiary in 2002.

I know that during the next few days, some of my friends on the other side of the aisle will be painting horrible pictures. They will tell us that passage of this bill means we are turning our back on the elderly, and on the poor and the disabled. They will repeat it again and again. But no matter how many times they repeat it, it does not make it true.

Mr. President. I wish all Americans could read the column by budget expert James Glassman that was printed in the October 17 edition of the Washington Post. Mr. Glassman’s column—and I ask unanimous consent that it be printed in the RECORD following my remarks—makes clear the facts contained in some of the emotional rhetoric we have been hearing.

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

(See exhibit 1.)

Mr. DOLE. Mr. Glassman writes that under the Republican plan, Federal spending will rise between 1995 and 2002 by $358 billion—or 24 percent. It is going to rise 24 percent over the next 7 years. Is that devastation? Is that cutting programs? No. Only in Washington would a $358 billion increase be called a cut.

The media bought onto the President’s spin for the most part; they keep talking about it. Turn on NBC, and Katie Couric is talking about “big cuts, big cuts.” She does not know anything about the budget. All she is picking up on is the liberal spin which the Democrats have been dishing out there with no facts, no effort to save Medicare, to balance the budget, or tax cuts: a lot of talk, but that is about all.

Mr. Glassman makes very clear that President Clinton was absolutely off the mark when he said—and I quote—"I will not let balancing the budget
serve as a cover for destroying the social
compact.”

The truth is, as Mr. Glassman writes, if the budget becomes law, the social
compact would change. We are likely—
for not only will the Government keep
its commitments to the elderly and the
poor, it will also meet an even more
important obligation to the public—the
obligation to spend no more than it
takes in.

Throughout this process, on every
major issue contained in this legisla-
tion, the Speaker and I have invited
President Clinton to join with us in
giving the American people the fund-
amental change they want. Instead of
sitting down with us, however, the
President has flown around the coun-
try making speeches, playing politics,
taking polls, and avoiding the work
and making policy decisions. The Presi-
dent apparently believes that Ameri-
can people do not really want a
balanced budget. He believes that the
people are so dependent on the Federal
Government that they will not tolerate
showing its rate of growth. He believes
that if we really have to, we will be in that
funk the President talked about. He
scored the President’s proposal at 52
percent, higher than Sen. Phil Gramm’s,
but with a devotion to the first-person sin-
gle exceed only by Sen. Phil Gramm’s.

The real question for voters assessing
the GOP budget is where the additional $358
billion—about $56 billion annually—will go?

Consider Medicare. Politicians talk about
$27 billion in cuts, but actually, under the
GOP plan, spending in 2002 will be $36 billion
higher than in 1995, an increase of more than 6
percent annually.

The truth is that, if Congress’s budget be-
comes law, the social compact would
be strengthened. Not only will the govern-
ment keep its commitments to the elderly
and the poor on health care, it will also meet
an even more important obligation to the pub-
lic that it abrogated 30 years ago—to

any business or household facing Such a
cut. They are far more likely to seek
safety in its final, “reconciliation” form—
does not cut total federal spending, nor does it
cut tax revenues. By a long shot.

An illuminating way to look at this budget is
to take what the government actually
spent and raised over the past seven years
and compare it to what Republicans propose
to spend and raise over the next seven years.
The results:

- Spending will increase by $2.1 trillion.
- Revenues will increase by $3.5 trillion.

These figures may surprise you: they run
counter to what you’ve seen in the press,
which continually uses the word “cuts”
when referring to both spending and taxes.

But in the misleading baseline-budgeting no-
counter to what you’ve seen in the press.

The real spending and revenue numbers
show something quite different: that the Re-
publican resolution is more modest than both
Republican and Democratic claims.

During the seven years from 1989 to 1995,
defense spending was $2.5 trillion. During
the next seven years the real spending in the
budget agreement calls for spending of $2.12
trillion.

As for revenues: During the seven years
just past, the government collected $7.3 tril-
lion in taxes. Over the next seven years, the
Republican plan will raise $11.2 trillion in
taxes—even taking into account the $500-per.
child credit and GOP changes to capital
federal spending was $1.5 trillion. If current
policies are to continue, spending, accord-
ing to the CBO, would be $2.7 trillion in
1996, or an increase of 60 percent over 1995.

In 1995, federal spending was $1.5 trillion.

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gains that will reduce expected tax revenues
by $215 billion.

If Congress did not make any changes to
the budget, spending would rise by 37 percent
and revenues by 44 percent, the Congres-
sional Budget Office (CBO) estimates. But
under the GOP seven-year plan, spending
will rise by 27 percent and tax revenues by
41 percent.

Stop and think about those numbers. They
seem to represent a reasonable path toward
an objective that most Americans share: a
zero deficit.

In the fiscal year that ended on Sept. 30,
1995, the government ran a deficit of $161
billion. If current policies were to continue,
the deficit will continue to rise in 1996 and
successive years, reaching $256 billion in 2002.

Any business or household facing such a
prospect would consider itself blessed. But
the federal government doesn’t have to
do that—mainly because the U.S. economy,
even growing at a moderate 2.4 percent a
year, is so powerful that it will generate
vastly higher tax revenues.

The truth is that, if Congress’s budget be-
comes law, the social compact will actually
be strengthened. Not only will the govern-
ment keep its commitments to the elderly
and the poor on health care, it will also meet
an even more important obligation to the pub-
lic that it abrogated 30 years ago—to

By deciding to preserve and increase these
entitlements, Congress had nothing left for
increasing the “discretionary” side of the
budget. As a result, the social compact will
actually be strengthened, not weakened.

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October 25, 1995

CONGRESSIONAL RECORD—SENATE

S 15599

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1357, which the clerk will report.

The legislative clerk read as follows: A bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1995.

The Senate proceeded to consider the bill.

Mr. DOLE. I ask unanimous consent that Senator DOMENICI be recognized for up to 80 minutes for debate only and Senator EXON for up to 30 minutes for debate only.

Mr. EXON. Reserving the right to object, I would like to make a clarification on this, if I might, and I do not think we have a difference of opinion on it.

It is the desire of the majority to move as quickly as we can into the amendment process, and as Senator DOMENICI knows—and I suspect he has told the majority leader—we are working to try to cut these down to move this proposition along. However, since we are limited to 10 hours each, as I understand the unanimous-consent request that has just been offered by the majority leader, there would be 1 hour off the Republican 10 hours, if we agree to this, and a half an hour on our side, which would mean that you are giving up an hour; we are giving up a half an hour for your 10. Is that right?

Mr. DOLE. We would like to give you more but we will settle for that.

Mr. EXON. Let us not press it at this time.

Mr. DOMENICI. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object.

Mr. DOLE. Let me just say—and I am going to depart here. I first want to say I hope we can work out some agreement so that we are not having 50 votes here and half passage when you do not have any time to debate the amendments. And I think I could speak for my colleagues on this side that we would be prepared, if there were a number of basic major amendments the Democrats wanted to offer period, we might be able to convince our colleagues not to second degree those amendments, if there were no other amendment for the amendment. And I know that is being worked on, and we hope to re-investigate that shortly after noon.

I now have to leave, but I would be happy to work with the Senator from Nebraska. We have in the past. Maybe we can this time around.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, we have no objection to Senator EXON's restatement of the proposition so long as it is not intended to in any way change the allocation other than this hour and this half-hour.

Mr. EXON. No no.

Mr. DOMENICI. We are not agreeing on different allotments of time or different treatment of amendment times. I have a different view.

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

Who yields time?

Mr. DOMENICI. I addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, would Senator EXON like to proceed with part of his time?

Mr. EXON. For clarification of all, I was advised the chairman of the Budget Committee, and Senator ROTH, the chairman of the Finance Committee, would be speaking, as I understand it, during part of the 1 hour that the Senator has reserved. As a result of that, I have alerted Senator MOYNIHAN, the ranking Democrat on the Finance Committee, and basically I would simply say that the opening remarks beginning on this side would be essentially 15 minutes for myself and 15 minutes for the ranking Democrat on the Finance Committee, which I think will basically take up most of the half hour. Then it is up to the Senator to allot the time on that side.

Is the chairman suggesting that he would like to have me proceed with my opening statement at this time?

Mr. DOMENICI. I think so other than if the Senator would give me 3 minutes for a little kind of housekeeping work.

Mr. EXON. Yes. And I would ask unanimous consent that this housekeeping work not be charged to either side.

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

Mr. DOMENICI. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the following staff of both the majority and minority on the Budget Committee be permitted to remain on the Senate floor during consideration of S. 1357 and that the list be printed in the RECORD.

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

MAJORITY STAFF

MINORITY STAFF
Amy Abraham, Annanias Blocker, Bill Damron, Ken Diack, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Phil Karsting, Jim Klumpner, Daniela Mays, Sue Nelson, Jon Rosenwasser, Jerry Siominski, Barry Strumke.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators, as we have done heretofore, be permitted in the chamber during the consideration of this measure.

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

Mr. DOMENICI. Mr. President, I minute off my time at this point and then I will yield. To Republican Senators, this is, as I understand it for the last few weeks, a very important couple of days. Many of you want to speak on just matters before the Senate and some want to just speak about a balanced budget. I want to say to all the Republican Senators I am going to do my very best to accommodate you, but I would tell Senators that it is not easy just give you a time when you want it. So I would hope that Senators would be flexible, and if we call on you, if you turn in your names, if you really want to speak and if we call on you, you be able to do it on a half-hour's notice or so because I just cannot arrange the floor in any other way.

Having said that, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. DOMENICI. Before the Senator from Nebraska, the Senator engage me in a little dialog about our efforts to see if we can better manage?

Mr. EXON. Yes.

Mr. DOMENICI. I believe, Senator EXON, we are going to have some time during this hour and a half, you and I, and perhaps your leader and I understand you have a small task force.

Mr. EXON. Yes.

Mr. DOMENICI. I have asked our leader if we could use his office, so I wonder if maybe looking at the clock, if you could arrange a meeting at maybe 25 after 25. You would be finished speaking. And we would have our side start going. Could we meet in the leader's office about trying to reduce the number of amendments and make some accommodation?

Mr. EXON. It sounds reasonable. Are you suggesting the timeframe of 11:20?

Mr. DOMENICI. Yes. I said 10 but let us say 11:20.

Mr. EXON. Agreed.

Mr. DOMENICI. Let me make sure in this dialog, in this exchange that everybody understands—

Mr. MOYNIHAN. Will Senator ROTH have spoken by then?

Mr. DOMENICI. I hope so. We have sent word for him to come.

I thank the Senator very much.

Mr. MOYNIHAN. I thank the Senator.

Mr. DOMENICI. Everybody knows hopefully that the Senator from New Mexico on most matters coming before the Senate that he has anything to do with tries to be fair, and I truly intend to do that. But I do want to state right up front that there are many Republican Senators, if not every one, who do not want to have the Senate go through 50 or 60 votes on single targeted issues.

I might just suggest right up front for those who are going to do that and insist, with the Senator's leadership, that they are going to do that, they will not get a vote on their amendment. I mean, they can be assured that they will not, because we will indeed
second degree those kinds of amend-
ments. And we have as much stamina, I think—I do not know—as much stam-
ina as that of the aisle.

Mr. EXON. And more foes.

Mr. DOMENICI. And more votes.

The Senator got it. That is very important. We only need 50. Let us make sure that is understood on both sides.

On the other hand, we were meeting to try to see if we can accommodate a more amicable approach. And let us hope that we can. I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend and colleague. I want to continue to work together. We have sharp differences on these things. But I think over the period of time for the 18 years that we have served on the committee together we have been accommodating to each other. I think that is the desire.

I will simply say that the chairman of the committee has indicated that people on both sides are very much concerned about how we proceed on this. That is true on this side. Unfortunately, with the time constraints that we have, with the mammoth bill we have before us. the Senator from Nebraska is going to have to be an unpopular traffic cop. trying to direct traffic to say no, since we do not have time. But at this time I yield myself 15 minutes, and ask that I be notified if I excused this time.

Mr. President, there was a marriage on Monday, a marriage that did not quite make the wedding notices. As my colleagues know, the Republican majority on the Budget Committee generously provided $224 to $245 billion in tax breaks for the wealthiest Americans and wedded it officially to the $270 billion in Medicare cuts. The seniors of America paid for that wedding, and they paid and paid and paid again over the years. The Congressional Budget Office issued the marriage license. In an October 20 letter to me, CBO Director O'Neill wrote that without the drastic cuts in Medicare, the tax break for the wealthy would not have been possible.

I ask unanimous consent that her letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. EXON. The happy couple of tax breaks and Medicare cuts are now before the Senate in the form of the reconciliation bill. They are asking for our blessing. We should not give it. This marriage should be annulled. Had the question been asked, "Is there anyone present who objects to the joining of these two, speak now or forever hold your peace?" I would have objected.

Mr. President, it has been almost 4 months since the Senate passed the companion to the budget resolution which began this reconciliation bill. a bill that has now grown to grotesque proportions.

This reconciliation bill was created behind closed doors. It is the first of the illegitimate births of this union. By comparison, it makes 'Rosemary's Baby' look like a dream child. They brought it out into the light of the day for the first time at midday last Friday. There were no hearings on Medicare. There were no hearings on Medicaid. There were no hearings on the promotion of the earned income tax credit. There were no hearings on the cuts in education. There were no hearings on how this budget cuts a huge swath like a tornado through rural America. Last Friday, rating the markup of this reconciliation bill. I asked if we could not hear from just four witnesses who could describe how this Republican budget would do great violence to their lives. I asked for an hour. That is just 1 minute for each $4.5 billion in Medicare cuts. But my offer was spurned.

Why the hurry, Mr. President? Why is the majority so breathless about sealing the deal on this budget? Why are they now moving in convoy fashion to pass this bill? The great pitcher, Satchel Paige, might have had the answer. He once said, "Don't look back. Something might be gaining on you." Something is gaining on the Republicans. They are hearing footsteps. They are hearing the American people gaining on them. More and more Americans are taking on this monstrous bill. And they feel deceived and betrayed.

Mr. President: I will speak in a moment about the particulars of this reconciliation bill and the terrible hardships that it inflicts. But I would like to take a moment to discuss what I believe is the large picture here.

When we get into these debates about budget reconciliation bills, they are about the wedding negotiations. Senators can all too easily lose sight—lose sight—of the ordinary Americans. The stage over-shadows the people on it. In this same vein, as a matter of another side, I cannot see beyond the gesture of the moment. They cannot see beyond the scaffolding they have erected in this reconciliation bill. They cannot see the people that they will harm. They cannot see the Nation that they are tearing apart. This Republican budget does not speak to the American values that I know and the ones that I cherish, values that every day in my fellow Nebraskans. The greatest of these values are shared sacrifice, fairness, and compassion for our neighbors. That is the social fabric that runs through our great Nation. But this Republican budget is tugging at every thread to unravel it.

In spite of the inflated rhetoric, the Republican budget reached a shallow bottom in no time at all. Some have called it social Darwinism at its shabby worst. I say, where citizens are pitied against citizens, young against the old, rural Americans against urban Americans. Last week Speaker Gingrich feigned that he wants no class warfare. What nonsense. It is this bill that fires the first shot of class warfare. It is this bill that goes to war against the working people on behalf of the wealthy.

Mr. President, the more this budget is exposed to the sunlight, the more we are finding that this is not the right key to open a complicated problem which we all agree is necessary—balancing the budget.

I am one of the few Senators who has actually balanced budgets and used the line-item veto to resolve it. I did it for 8 years as Governor of Nebraska. But I say to my colleagues today, this Republican budget is not the way to do it. Tax breaks for the wealthy are writ large all over this reconciliation bill. Tax breaks for the wealthy have riveted the attention of the Republicans to the exclusion of everything else. Tax breaks for the wealthy have established primacy over time-honored commitments to provide a safety net for our fellow citizens.

Medicare became the most convenient laboratory for conducting these tax breaks. The Republican Medicare plan cuts the program three times more than necessary to keep it solvent through the year 2006. Just to pay the freight for the tax breaks.

The Republican reconciliation bill doubles the premiums under part B Medicare. It doubles the deductibles under part B. It increases the Medicare eligibility age from 65 to 67. all for the tax breaks.

And on October 2, in an editorial in the New York Times, the Times states, and I quote:

Right now, Medicare makes up less than 12 percent of the Federal budget. But Medicare cost account for more than twice the percentage of the lower spending in the Republican approved budgets over the next 7 years. According to the Administration, these facts clearly demonstrate that health programs for the elderly are bearing a disproportionate share of the austerity pushed by the Republicans.

Mr. President. I ask unanimous consent that the full editorial that I have referenced in the New York Times be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered. (See exhibit 2.)

Mr. EXON. Mr. President. the shocking truth is that more than 88 percent of the Republican mandatory cuts come from means-tested programs, those which serve predominantly low-and moderate-income Americans, and from Medicare, where three-quarters of the beneficiaries have annual incomes under $25,000.

A Joint Economic Committee study also concluded that the poorest fifth of Americans would shoulder fully half of the proposed program cuts. for an average loss of nearly $2,500 per family in 2002. There are no breaks for these folks in this Republican bag of tricks.
The Republicans trumpet that their tax breaks will benefit all Americans, especially the middle class. The truth, however, tends a different note, and it is definitely sour.

Last week, the Joint Committee on Taxation testified to Congress that tax breaks will go to 12 percent of the American families making $100,000 a year or more. The New York Times also said, and I quote: "The Republicans are rushing through Congress the greatest attempt in modern history to reward the wealthy at the expense of the poor." Earlier in my statement, I mentioned that the Republicans are not only pitifully young against old and rich against the middle class, but our rural areas against urban areas. They are taxing to death throughout the many States of our great land.

This Republican reconciliation bill is a cruel joke, above everything else, upon rural America. More than 9 million rural Americans will pay higher out-of-pocket costs for second-class Medicare programs. The typical rural hospital could find its annual budget cut by a fourth, thereby losing many beds and causing many physicians to leave and to never return. Medicaid cuts will eliminate coverage for 2.2 million rural Americans, including 1 million children. The President's $1 billion yearly budget would be a cruel joke. What, Mr. President? Once again, for the almighty tax breaks for the wealthy.

The evidence clearly keeps mounting. It is compelling. It is heart-wrenching. This reconciliation bill is wrong for our great Nation. For the good of our Nation, it should be defeated. This is the time when we should be formulating a balanced budget that unites America and unites its people, one this only seeks to divide us.

We know that this reconciliation bill will be vetoed by the President. Those of us who reject the extremism of the day, both Republicans and Democrats, should be looking beyond this doomed reconciliation bill. We should be looking to a workable alternative, a compromise. We should be looking beyond building on the structures and values of our great Nation, not tearing them down.

I have offered before, and I offer again now, to my Republican colleagues: Come, let us reason together and develop a true and workable compromise. If we can stop this Republican juggernaut and stop it now, we can get on with fashioning a reasonable formula to balance the budget.

The PRESIDING OFFICER. The Senator has used his time.

Mr. EXON. I allocate myself 2 additional minutes.

My President. if we pass this bill, it will certainly receive a Presidential veto. and we will belatedly start all over again.

The American woman of letters, Lilian Hellman, once commented: 'I cannot accept it upon my conscience to fit this year's fabric.' Nor will I. Mr. President. I will vote against this budget, and I urge my colleagues to do the same.

I reserve the remainder of my time, and I yield the floor.
But reform is certain to be undermined if it is coupled with a reactionary redistribution of government revenues. In the coming weeks and months, the House and Senate will be struggling to reconcile their differences and put them in one negocio pieces of legislation, possibly picking it to a measure keeping the United States out of default. Mr. Clinton must not be petty in this debate. If he can convince the Republicans will be forced to scale back their assault and confront the reality that a large and regressive tax cut is inappropriate at a time of social equity and fiscal common sense.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, under the unanimous-consent agreement, we have almost 1 hour on this side?

The PRESIDING OFFICER. Fifty-nine minutes.

Mr. DOMENICI. I yield myself 15 minutes, and then I am going to excuse myself for a half hour or so and see what we can negotiate with the Democrats in terms of a more orderly process than confronts us today.

Now, I am very interested in today's debate. Let me suggest the other side, including my good friend, Senator Exon, plays very loose with numbers. Including my good friend, the distinguished Senator from Nebraska says if this bill is passed we are going to leave everything status quo. “I want to insert in the Record just one simple chart. Food stamps, AFDC, child care, child nutrition, SSI, Medicaid, and EITC. In the year 1996, we will spend $195 billion on those programs. The next year, $202 billion; the next year, $235 billion; the following year, $253 billion. In summary, by the year 2002, these programs, which today are at $195 billion, will be $253 billion. Now, that is not counting anything. It is merely stating the figures of this reconciliation bill, as found by the Congressional Budget Office. How about hearings? Just one little statement about hearings. The last time the Democrats controlled this body, they did the President's bidding. I believe some of them are sorry they did because, of late, he has suggested that they had been duped. He did not want all those people who voted for--only $270 billion, the largest tax increase in history. He is suggesting that somebody made him do it. As an aside, I want to say to the Democrats in this institution that is not only bunk, he actually asked for $380 billion, you reduced it to $270 billion, because he had the Btu tax in there.

Mr. MOYNIHAN. Against my better judgment. We reduced it against my better judgment.

Mr. DOMENICI. Senator MOYNIHAN wanted to keep it higher. This is the chronology for the budget process. When they were in control, the number of hearings held by the then Democrat Budget Committee was 7; the number we held was 22. The number of witnesses who offered testimony in the Senate Budget Committee, throughout their hearings, was 10; we had 110. The number of days spent in markup, they had 3; we had 4, giving them more opportunity to express themselves. The number of days spent in conference, they had 6; we had 18. We make no apologies with reference to hearings. We had plenty of hearings and the Budget Committee set the targets.

Mr. President, I want to suggest, by using just two quotes, what this issue is about. Thomas Jefferson said: "The question of whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and are morally bound to pay them ourselves."

That is what this debate is about. Do we want to pay our debts, or do we want our children and grandchildren to pay for the Government we want to give up? After all, people you cannot afford to.

To put it another way, is it not the lawyer and thoughtful person on America's Constitution, Laurence Tribe, philosophically a liberal lawyer from Harvard, said:

"Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it is especially fitting in principle that we seek somehow to tie our hands so we cannot spend our children's legacy.

Now, we are bent today and tomorrow on this floor to decide what kind of legacy we are going to leave our children—a legacy of debt. of diminished standard of living, a legacy which says to them. "We want you to work perhaps 30 or 40 percent of your working lives to pay our bills," for they will be forced to do that. It is estimated Mr. President that every child born today will spend at least $100,000 in new income tax to just the interest on the national debt. What kind of legacy is that? Is that a legacy that should pass on to the children of the children of our country? And if it does, is there some way to say to our seniors and our young people and our veterans and our students—every American—"You do not have to worry about it, we are going to leave this debt alone. We will be getting from your Government, you can keep getting." The legacy for that kind of leadership is a bleak future for the greatest Nation on Earth—$4.7 trillion in debt, and rising at the rate of $420 million a day; just tick it off, tick it off. We will be here for 2 days, so that is $420 million times two while we decide a Republican proposal that says we have to spend at least $100,000 in new income tax to just the interest on the national debt."

Now, before you pass judgment, fellow Senators and fellow Americans, about the bill and the summaries that will be given from the other side, hear from those who put the package together and put the programs together on our side. Somewhere you can pass judgment upon whether we are being fair or unfair. I believe you will come down on the side of saying that this is fair to our children and to our children's future, and everybody has to be part of the change that will bring that into fruition a couple of nights from now.

I must say to the President of the United States that veto and veto and veto and veto and veto, as you are doing, is not getting us anywhere. It is not going to solve anything. What we need is a balanced budget; nor does it get you close to eliminating a legacy for our children and grandchildren of servitude, or perhaps a partial servitude of that next generation to ours, for they will work to pay our bills. Mr. President, is that the kind of leader you want to be? Democrats on the other side, is that what you want to be? You are going to bring before us, one at a time, amendments to strike pieces of this, and each
one is going to sound neat, sound worrisome. I hope every single one of them is defeated, and I hope we take this budget to conference and then to the President of the United States and let us see what he does; let us see what he offers. Mr. President, we extend that to you now, and we say it is going to happen. So get ready, Mr. President, for what you are going to do when we give you this package. Fellow Democrats, we understand you differ with us. We will try our best to be truthful and to point out where you are wrong. In many of the states where the American people you are wrong on the facts. We will try to get them before you.

Having said that, I assume I have used 15 minutes. Is that correct?

The PRESIDING OFFICER. The Senator has used 11 minutes.

Mr. DOMENICI. I do not want to restructure any of my time.

Mr. KENNEDY. May I have 15 seconds for a question?

The PRESIDING OFFICER. The Senator has used 11 minutes.

Mr. DOMENICI. Sure.

Mr. KENNEDY. I am wondering when the Senator is going to explain the justification for the tax cuts. I have been on the joint committee that the justification that the Senator has given, without a single word about what the justification is in this bill for the tax cuts for the wealthiest individuals. I have not heard a discussion about the implications of that. In those terms.

Mr. DOMENICI. You can rest assured that we will answer that. Many issues have been raised, and I am trying to give an overview. That will be answered a number of times.

Mr. MOYNIHAN. Could it be that you delegated that joyous task to the chairman of the Finance Committee?

Mr. DOMENICI. My friend knows that the Republicans do their work. He is in charge of that work. I will not take a back seat to anybody on explaining the tax bill. I do not know it in detail, but I think it is a very good tax bill. When the American people understand the tax cuts results, they are going to find out that what we said we would do was get a balanced budget, and we did; and then the economic dividend that comes from that, we would use to give American people back some tax dollars so they could spend it themselves. We think the tax writing committee has come very close to doing that in a way that almost all of us would be willing to middle Americans, making $110,000 and under. We will show that unequivocally, and I believe the Joint Tax Committee will be saying that, too.

Mr. MOYNIHAN. The Chair has recognized the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, point of inquiry: how much time does the Senator from Nebraska have under the unanimous-consent agreement in place now?

The PRESIDING OFFICER. The Senator from Nebraska has 14 minutes.

Mr. EXON. Mr. President, upon his seeking recognition, I ask unanimous consent the Chair recognize the Senator from New York, and the remaining time under my discretion is allocated to the Senator from New York.

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

Mr. DOMENICI. Mr. President, one observation, please and then I yield the time that Senator Brown desires, with the Senator from Michigan controlling our time after that.

Mr. President. I forgot to mention on the tax cuts, obviously the President thinks the taxes were raised too much last year under his proposal. One way of looking at it is getting set to right that wrong which the President complained about in Houston, about which he was beginning to say he should not be blamed for that tax increase.

We will accommodate and reduce some taxes so that maybe he can support on us that.

I yield to Senator Brown.

Mr. BROWN. Mr. President, I rise for just a short comment because I think it is important for the American people to keep this perspective in mind.

This package has been attacked by the opposition. It is that the holy college and indeed the obligation of Members who find this unacceptable. No one should be fooled as to the contents of this package. This package ensures that Federal spending goes up 3 percent a year, it will be a fair increase percentage.

Now, some Members find that unacceptable, some find that cruel and inhumane. As a matter of fact, the description that was just given by the Democratic Budget Committee leader compared the package to "Rosemary's Baby"—a look-alike dream child.

Mr. President, indeed, there are some Americans, particularly in Congress, who think that increasing spending only 3 percent a year is the worst thing that has ever happened in Western civilization. We will hear a lot about that in debate.

The American people ought to keep in mind what this is. This is a plan to increase spending 3 percent a year instead of 6 percent a year. The difference is our future. By controlling the increases to a moderate rate we are able to offer a future to our children and our grandchildren. We are able to focus on the deficit. Mr. President, without doing that we consume their future with deficits, and economic stagnation.

Mr. President, I simply want to make one other point that I think is relevant to this debate and very important. I heard the American people who listen to this, who listen to the rhetoric that has been made about this budget plan. I will understand that we are not talking about cuts in most programs. What we are talking about is slowing the rate of increase.

In the discussion of tax cuts, let me simply mention that I hope Members will be on guard, or Americans will be on guard, as they listen. I have heard the most incredible debate of the tax cuts that I have ever heard or I ever thought I would hear in my life. Pinocchio's nose would be a world-record length if he had to listen to the discussions that we have put forth.

Let me give an example. I have heard of tax credits that are not yet implemented as being called increases in taxes. That is ludicrous. I have heard welfare programs that are being considered in the rate at which they spend money as being increases in taxes.

Mr. President, an increase in spending is an increase in spending. A cut in spending is a cut in spending. Frankly, the American people have the good judgment to see through this kind of rhetoric.

What we need are real valid estimates. What we need is a solid budget that gets us where we want to go.

Mr. President. there is only one budget that is considered here today that will do that. That is the budget that has been certified by the Congressional Budget Office as meeting those targets. There is only one alternative that brings us to a real balanced budget. That is the budget before us. If this is the only game in town.

Are there critics? Of course there are critics. Are there people who simply cannot live with limiting growth of Federal spending? Of course there are.

Everyone knows this country does not have a future if we do not do the kind of things that are in this budget.

The question is whether or not we will act for blue smoke and mirrors, for invalid assumptions that the President suggests, or whether we will opt for the real thing.

Mr. President, this is the real thing. It offers a future to Americans. I retain the balance of our time.

Mr. MOYNIHAN. Mr. President, we are awaiting the arrival of the distinguished chairman of the Finance Committee who will set forth the proposals of the tax cut in this measure.

I say to my friend from Colorado that it might surprise him, there are those on this side of the aisle who see the debt crisis in the same crisis terms that he does and have a feeling that we know when it arose in the 1980's, and it was not from this side of the aisle—and we want to get hold of it.

We do not think you can solve a deficit problem by cutting taxes.

Mr. BROWN. Mr. President, I simply observe—and I greatly respect the distinguished Senator from New York, both his intellect and his integrity—from this Member's viewpoint, I believe an objective review of the programs that have risen in increased spending would indicate that the programs that are in question were not adopted during the 1980's. Finan-

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small farmers create income for one family. It is not like the economy does in an industrial job, one income for a family, with $50,000 investment and somebody else who is offensively is managing it; or in a service job where the economy needs only $10,000 or $15,000.

I am also providing, in this bill, tax changes that are meaningful in ending the marriage penalty for non-itemizers. We are answering the pleas of a lot of young people everywhere who want to know why their Government is penalizing them for exchanging marriage vows.

This bill says we are not going to tax reasonable dues to farm organizations. This IRS ruling, as stupid as it is, creates a lot of problems for a lot of cooperatives and nonfarm organizations out there. Just like the President's tax increase last year—albeit in that instance it was something passed by a Democrat controlled Congress, and not some uninformed ruling by the Internal Revenue Service.

Finally, I would like to highlight that this bill also improves and expands IRA's. We are reinstating an IRA to which working people can make tax-deductible contributions. Even homemakers and even nonworking spouses will be able to make contributions for the first time ever. There will be penalty-free taxable withdrawals for qualified uses.

Everyone knows that we need to double the current savings rate of 4 percent. Young people in my State know that they will have to save for their own retirements while they are financing the retirements of baby boomers, and the IRA incentives in this bill will provide the opportunity. Expanding and strengthening the individual retirement accounts is something I support. I am glad those efforts bear fruit, and I compliment the new chairman of the Finance Committee, Senator ROTH, for getting that job done.

Mr. PRESIDENT. The 10 minutes of the Senator has expired.

Mr. GRASSLEY. I am going to yield the floor. I am not done, but I want to inform my colleagues I have spoken all I wanted to on the tax provisions. I do have something I want to say on the Medicare provisions, and I will get back on that later.

Mr. MOYNIHAN. Mr. President, I yield to the gentleman of the opposite Democratic time. I had hoped to speak in response to my good friend the distinguished chairman of the Finance Committee. He is unavoidably detained. So I will go ahead as if in rebuttal.

But first to continue the exchange I was having with the Senator from Colorado. There are those on this side of the aisle who are deeply offended by the continuing deficits which have increasingly produced stalemate in our Government. This sequence began in the late 1970's, early 1980's, and there was an idea behind it—the idea was that, if you wanted to paralyze the Federal Government you simply put it into a paralyzing debt by the reduction of revenues and simultaneously increasing spending on defense and such matters. We forecasted. We tracked it. And we are here today to say that it is the case.

Just a few years ago in a wonderful book 'The Deficit and the Public Interest' Joseph White, and the late revered Aaron Wildavsdy, said: Strife over the deficit has affected procedure as well as policy. Monopolizing the congressional agenda, encouraging paralyzing and deceptive legislation like Gramm-Rudman, frustrating our public officials, and stalemating the Government.

As regards deceptive legislation, Mr. President, I have to place this present proposal in that category. We are not balancing the budget by adding $700 billion to the debt in the next 7 years. One of the ways we are doing it is, while talking about the deficit, while talking about the debt, we are going to tax more. We are no, Mr. President, I correct myself. We are going to raise taxes on half the population, and cut taxes on the other half.

Mr. President, here is a table from data produced by the Joint Committee on Taxation, which is an authoritative, intermittently nonpartisan, body which calculates the effects of tax measures taken by the Committee on Ways and Means, and the Committee on Finance. In the course of our markup, as we say, voting out the tax bill, I requested that the Joint Committee give us the distribution of the $245 billion tax cut, and they did, including the reduction in the earned income tax credit which are tax increases, in my view. If you have to pay more tax, you have had a tax increase.

Sir, here is the data: 51 percent of America's tax payers will have a tax increase; 49 percent will have a tax decrease. How can we do this, and then talk about fiscal responsibility elides this Senator.

Now a second table from data produced by the Joint Committee on Taxation, which is an authoritative, intermittently nonpartisan, body which calculates the effects of tax measures taken by the Committee on Ways and Means, and the Committee on Finance. In the course of our markup, as we say, voting out the tax bill, I requested that the Joint Committee give us the distribution of the $245 billion tax cut, and they did, including the reduction in the earned income tax credit which are tax increases, in my view.

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Sir, here is the data: 51 percent of America's tax payers will have a tax increase; 49 percent will have a tax decrease. How can we do this, and then talk about fiscal responsibility elides this Senator.

I am embarrassed for my friends on the other side of the aisle. This is a caricature. A comic Democrat might have come up and have said, "Let me show you what a Republican tax cut looks like."

Families with incomes above $200,000 will have a tax cut of $3,416. Families with incomes under $10,000 will have a tax increase. That simply is unacceptable.

Mr. President, the distinguished chairman of the Budget Committee earlier spoke about what Thomas Jefferson had to say on the subject of debt. I have not met Mr. Jefferson, but you can sense his presence in these precepts. The Senator said what Lawrence Tribe has said about the accumulation of debt, which I taught at Harvard university, and I know him well. And the legacy of debt of which the chairman spoke—we are the ones appalled by that legacy. We did not create it.

At the end of the 1976's at the end of the administration of President Carter, the national debt was about $1.3 trillion, not just $800 billion. That was at the end of nearly two centuries in this Republic. After 15 years it is now approaching $3 trillion. That did not happen accidentally, and it did not happen as a consequence of activities on this side of the aisle.

To the contrary, 2 years ago the Democrats put together, in the Omnibus Budget Reconciliation Act of 1993, a combination of program spending cuts and "tax increases"—I do not bear to use the term—of $500 billion. And we brought a deficit, which in that year, in fiscal 1992 was $200 billion. We started a glidepath down to where this fiscal year just concluded. The deficit will be somewhere between $150 and $170 billion. We cut the deficit in half.

In consequence of what we did, the so-called deficit premium on interest rates was reduced. The deficit premium is simply that extra charge which lenders exact when governmental deficits and debt are running very high. It is the end the way governments typically have handled their debt was through inflation, to wipe it out, wipe out the currency, and wipe out the society frequently. But it happens. It happened in this case. We promised this premium exists, the deficit premium being charged on interest rates went down, and resulted in a savings to the Federal Government of about $100 billion more. So in total we avoided the $200 billion as a result of the 1993 legislation—passed without a single Republican vote.

What have we to show for that? First, let we say that the average length of recovery for 10 postwar business cycles has been 50 months, but the current recovery has now lasted 55 months and is still going. The annual rate of growth in real gross domestic product has been 3.3 percent, more than twice what it was in the year we introduced the deficit reduction. The unemployment has fallen to 5.6 percent, which is very close to full employment. The annual inflation rate has dropped to 2.5 percent.

If you correct for the CPI overstatement, you may have something very close to zero inflation. The New York Times this morning devotes a lead article in its business section to it. "Has inflation finally been whipped?" It did not happen. It was made happen by what we did in 1993, and we do not apologize for a thing. We would rather state we have shown the way—shown what you can do, if you have the courage to govern. There are things in this
present proposal from the majority with which I would disagree. There are things with which I would not disagree in the least. I do not object in the least to the statement of the Senator from Colorado that a reduction in the rate of increase is not a cut. However, to cut taxes is an act of unforgiven irresponsibility. I did not say "unconscionable." I said the consequences will be unforgiving at this moment in our business cycle expansion. We do not need to do this and, Mr. President, we would not be doing it save for the House Representatives.

In our hearing on this subject, in the Finance Committee, one Republican Senator after another said no, we have to bring the budget into balance. This is no time to cut taxes. We do not have to stimulate the economy. The economy is in its 35th month of expansion; we are practically at full employment; inflation has practically disappeared. Business investment is at the highest rate in 30 years. Productivity is at its highest rate in 30 years. This is not the time to get into an inflationary stimulus. We know enough about our economy to know that.

Mr. President, after another from the other side of the aisle said no, certainly not: we would never pass a $245 billion tax cut. And then we learned that—and I do not mean in any way to seem to ridicule, but it turns out that the Heritage Foundation with America written in the other body required this tax cut. And so here it is today. But it is not a tax cut for all. It is a tax cut for half the population and a tax increase for the other half. That surely is something we would not wish to do in ordinary circumstances.

Has the prospect of a Presidential election brought us to this? I hope not. Mr. President: I hope we would not be doing in the process of cutting, cutting Medicare as much as we do, cutting Medicaid as much as we do.

Mr. President, before this decade is out, we are going to have a crisis in our teaching hospitals and our medical schools because of the measures in this bill. We currently have in Medicare a provision to provide medical schools and teaching hospitals with some extra support. We currently have a provision on disproportionate share which in effect compensates those hospitals, including teaching hospitals, that treat the poor. Large proportions of the uninsured. They are already in a precarious financial position, and the bill before us will exacerbate their problems. They will be in genuine jeopardy if this bill becomes law. At the greatest moment of medical science for this country and its institutions, we are decimating their finances in order to give a tax cut to people with incomes over $200,000.

Mr. ABRAHAM addressed the Chair. Mr. ABRAHAM. Could I inquire as to how much time is remaining?

The PRESIDING OFFICER. Thirty minutes remain.

Mr. ABRAHAM, Mr. President. I will take 2 minutes on our side and then I will yield the remainder of our time to the Senator from Delaware. I use my 2 minutes very briefly to be responsive to some of the comments that have been made here already about the nature of the tax cut. I am sure the Senator from Delaware, the chairman of the Finance Committee, will elaborate in more detail. But I was very concerned recently when I began to see on this chart appear and some of the comments related to it that suggested somehow the tax cut that is being proposed as part of this reconciliation bill would disproportionately fall on the shoulders of the least affluent and tremendously benefit the wealthiest among us which is the frequently used term that we hear.

So I said to myself, gee, that does not sound like the tax bill the Finance Committee passed. And indeed, I then began looking into the tax bill the Finance Committee passed, and according to the Joint Tax Committee calculations, in the first year of this tax bill 90 percent of the tax cuts will go to people whose earnings are below $100,000 a year. Over three-quarters or 77 percent of the proposal's tax cuts will go to those making under $75,000 in the first year. Less than 1 percent of the proposal's tax cuts will go to those making over $200,000 in the first year. Over four-fifths, 84 percent, of the proposal's tax cuts will go to those making under $75,000 in the first 5 years. 70 percent of the proposal's tax cuts will go to those making under $75,000 in the first 5 years, and so on and so on.

Indeed, charts and statistics can always yield certain kinds of inferences, but those are the actual numbers that the Joint Tax Committee produced when it evaluated this plan.

I said maybe there has to be a discrepancy here. What could it be? Let me look at the individual provisions of this tax cut and see. In order to fulfill the numbers we have been hearing, they must all be tax cuts that benefit the wealthiest people in America. So I looked and I found a $500 per child tax credit; $141 billion of the total tax cut is the child tax credit, and it is phased out for people beginning at family incomes of $110,000. Over three-quarters or 75 percent of the proposals tax cuts will go to those making under $75,000 in the first 5 years, and so on.

A MOMENTOUS TIME

Mr. ROTH, Mr. President. this is certainly a momentous time. Change is the order of the day. And it is a time to renounce old and unworkable programs and philosophies and adopt those that will move America forward. Those that offer prosperity, security, opportunity, and growth to our families and to our communities.

As Henry George once said, "The sailor who raises the same sail regardless of changes in the direction of the wind is the nearest reed to the wind". In this Congress, we have not only trimmed the sails but we have set a
bold new course for the future. For the first time in more than a decade, we are serious about balancing the budget, and we have a plan to do it. The first task in 50 years, we have changed the dynamics of the welfare State, creating incentives that encourage work and strong families, incentives that balance rights with responsibilities.

At last, we have abandoned the questions concerning Government. No longer do we ask: "How big can we make it?" No longer do we ask: "How can we control the States? How can we concentrate power more in Washington?"

These are not the questions anymore. Rather, the new questions are: "What is Government's proper role? How can we make it more cost-effective and efficient? And what do we need to do to create an environment of security for those who legitimately need Government assistance but an environment for economic growth and opportunity for the valiant taxpayers who provide this assistance?"

In my mind, and for the very first time in my memory, we are returning power back to where it belongs, back to the States.

This is what we were sent here to do. It is the message we heard last November. And the job is getting done. At home we have energetic Governors with innovative plans, many with success stories. We have friends, neighbors, and constituents who want, once again, to feel like they have a powerful voice in the system. These are men and women who over the years have come to build this franchise as their Government has moved further and further away.

We are in the process of putting the power back where it belongs, in the States, where our friends, our neighbors, our constituents have a stronger voice and are more active in the political process. 104th Congress move forward. I have thought on many occasions that I can think of no other Congress in which I have been more honored to call myself a Member than this one. And I am grateful for my colleagues, colleagues on both sides of the aisle, who have come to agree that the old way just is not good enough, not for America, not for Americans.

In many ways there has been an immeasurable amount of cooperation in this Congress, and it should not be overlooked. In other areas I would like to see more. But I believe a part of the cooperation that is apparent, of course, is borne by the fact that we all know what needs to be done. Republican and Democrat, we all realize the challenges that must be addressed.

Even President Clinton, from time to time, has reflected his insight and understanding, saying that his record-setting tax increase was a mistake and finally agreeing with House and Senate Republicans that the budget could be balanced in 7 years.

With the reconciliation bill we bring to the floor today, we again need this cooperation, perhaps more than ever, as we turn our attention to saving and strengthening the Medicare system, toward curbing runaway spending and toward giving Americans what they need now after a decade of tax increases: a real, workable, economy-expanding tax cut.

Frankly, Mr. President, there should be cooperation. President Clinton himself has been a most important voice in expressing the importance of making real and lasting changes. As I said, he has admitted his tax increases were too high. He knows spending is out of control. But he has given us his own credit, a credit of up to $800 per child. His statement is that it is possible to balance the budget in 7 years. And almost 2 years ago, he took a firm stand on Medicare, saying that—and I quote—"Today, * * * Medicare [is] going up three times the rate of inflation. We propose to let it go up at two times the rate of inflation. This is not a Medicare * * cut."

President Clinton understands what needs to be done. After all, he was the one who ran on the platform of bringing change to Washington. Now, he cannot have it both ways. We either change the old and failed ways of doing business, or we keep business as usual.

Well, Mr. President, I vote for change. I encourage my colleagues on the other side of the aisle to join us in making change possible, rather than retreating into gridlock and defending 30-year-old policies that have spent some $3 trillion to have more children living below the poverty line today than when those programs began. This is not progress.

According to economist Walter Williams, the taxpayers' money that Washington has spent on these programs has put the Federal ill's over the last three decades corresponded to the entire assets of the Fortune 500 companies and virtually all the U.S. farmland. But today the problems not only remain, they are even worse. The fact is, we need change, and the usual process is not. Americans do not deserve business as usual, especially those Americans who in the last 30 years have fallen prey to the pathologies that attend poverty: dependency, crime, unwed mothers, broken families, decaying neighborhoods.

Certainly we must keep a safety net. None here argues that we should not. But we must cut the links in the chain of dependency.

I believe that except for politics, President Clinton and many of his allies in Congress would be with us on most of the proposals we have included in the reconciliation package. Even on our historic efforts to save and strengthen Medicare.

Remember, it was the President's own Medicare trustee report that so vividly outlined the problem we are attacking today. According to that report:

the Hospital Insurance Trust Fund (Part B) is projected to be exhausted in about seven years. The SMI Trust Fund (Part B), while in balance on an annual basis, shows a rate of growth of costs which is clearly unsustainable. More than this fund is projected to be 75 percent or more financed by general revenues, so that given the general budget deficit problem, it is a major contributor to the greater fiscal problem of the Nation. The Medicare program is clearly unsustainable in its present form.

Mr. President, as I said, this is from the administration's own trustees.

There has been no question about the absolute need to restore the integrity of Medicare. Mr. President, today is the day. Strengthening the program so it can absorb the baby-boom generation.

And in doing all this, our efforts at reform must also create conditions, an environment, for the larger future where our economy can expand and the harvest for coming generations can be planted. The reconciliation package we present today accomplishes just that. It keeps our promise to the American people.

Our proposal does not engender dependency on Government like the failed policies of the past. It does not perpetuate the negative incentive that feed the welfare bureaucracy and those who maintain their political power based on the spending of others' money. It is not progress.

Of course, our policies address the needs of citizens who cannot care for themselves, but more importantly, they create conditions for upward mobility, conditions for economic opportunity, incentives for self-reliance. And I cannot express how important it is that we create these kinds of conditions.

At the moment our economy is still growing as strongly as it should be growing, and perhaps this is why President Clinton now believes his record-setting tax increases were a mistake. At the moment, there is little incentive for Americans to save and invest. Perhaps this is why today the average 50-year-old is so ill-prepared for retirement and why, among the industrial nations of the world, we lag behind both the European Community and Japan. And I cannot express how important it is that we create these kinds of conditions.

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seniors are living with fear and uncertainty. But not just our seniors: fear and uncertainty grip their children and grandchildren. And while we have almost four workers per retiree, the numbers are increasing, there will be over 60 million. While these numbers are increasing, there will be fewer workers to support each retiree, and while we have almost four workers per retiree today, we will have about two workers per retiree by the year 2030. So, Mr. President, we must change the system. We cannot move into the future with blueprints that were designed for the past. Medicare and Medicaid have been the most significant contributors to entitlement growth in recent years. It is projected that these programs will cripple as a share of the economy within the next 35 years. Thus, they are unsustainable.

In 1994, Medicare spending was $160 billion. Over the past decade, Medicare grew by about 10 percent per year, and CBO projects a similar growth over the next decade. As Medicare costs continue to grow at this rapid pace, the Medicare Hospital Insurance Trust Fund, part A, is projected to go bankrupt in 2002. As the baby-boom generation retires, Medicare costs will continue to soar. The Medicare trustees project that between 1995 and 2020, Medicare will grow from 2.6 percent of the economy to 6 percent, an increase of over 200 percent. And like all entitlement programs, Medicare is long overdue. It changes business as usual in Washington. It answers the clarion call from our constituents to make the kind of changes that so desperately need to be made.

I remember that an astute political adviser once warned his boss that there is nothing more difficult to take in hand, more perilous to conduct or more uncertain than to take the lead in the introduction of a new order of things. I believe, with some of the inflammatory rhetoric we have heard surrounding this important debate, there is good reason to say that this adviser knew what he was talking about.

Change is difficult, but change is necessary now than ever before. Where some may feel they lose in one aspect while single-mindedly absorbing one component of these changes, they are about to gain in others. What we seek to achieve here is balance, balance that improves conditions and opportunities for all. It is not the voices of individual special interest groups that govern our actions, but the collective voice of America as a whole that council us.

We must resolve; we must have confidence in the balance that our program offers. I have that confidence—as do other Members who join me today in introducing this reconciliation package. Quite simply, there are four components to our program—promises we made to the American people—promises we are now keeping:

First, we provide for a balanced budget; and while we have almost four workers per retiree, the numbers are increasing, there will be fewer workers to support each retiree, and while we have almost four workers per retiree today, we will have about two workers per retiree by the year 2030.

To balance the budget, we must control the growth of entitlements. I am not suggesting these programs be abolished or even cut. We simply need to get them under control. This is easy to see how they got out of control. Simply put, these programs escape the discipline of the annual budget process. This escape occurs automatically, covering any individual who meets eligibility criteria. These increases are heavily influenced by the rapid rise in health care costs, the growing number of beneficiaries and real benefit expansion.

Of course, today America is aging. Our population is getting older as people and living longer. This is a good thing. It is indicative of progress. These changing demographics, however, must be accompanied by changing policies and programs. Programs that were designed for the majority of Americans lived to be 61 and when our Nation had five workers to support every one retiree must be modified to reflect current reality. Today, the average American lives more than 76 years, and there are less than four workers to support each retiree. In 1965, when Medicare was enacted, the average American who reached retirement age could expect to collect benefits for 15 years. Today, the average 65-year-old will receive benefits for 18 years.
prove critical in keeping costs down and providing services and items that are currently only partially covered and that meet the standards we set to protect our seniors.

There is no evidence that the Medicare fee-for-service plan, the opportunity for our seniors to join plans sponsored by local hospital and physician groups, health maintenance organizations, point-of-service plans, or preferred provider organizations, point-of-service plans, or preferred provider organizations, point-of-service plans, or preferred provider organizations also allows for seniors to join high deductible medical savings account plans, which are increasing rapidly. Furthermore, in any other kind of health plan that meets the standards we set to protect the beneficiaries, beneficiaries will be protected under our proposal. Despite the plan they choose, all seniors will receive coverage for the same services and items that are currently covered by the traditional Medicare Program. The good news is that as these new plans compete with each other for seniors, it is likely that they will offer even more benefits and improved services.

The private sector, which has done much better in keeping costs down than the Government, has proven that choice creates competition, and competition is good for the consumer. And the fact is, in our proposal we are offering seniors even more efficient and effective health care options than are available to most working Americans through their employers.

By introducing private market incentives into the Medicare Program—by giving consumers options and encouraging providers to compete for business—we could control program growth sufficiently enough to save it in the long term. It is no surprise that the private sector has been much more successful at controlling health care costs, not only under market principles, than the Government, which has depended largely on price controls. To survive, the Medicare system must allow patients and providers to use health resources efficiently through a choice of plans.

This is not a new idea: it is an approach that's been tested and proven. Offering choice in Medicare is based on the highly successful Federal employees health benefit plan. Largely because of choice, this year the average FEHBP premium was reduced by 3.3 percent. Next year, the average increase will only be 0.4 percent, proving that choice brings competition and savings. In fact, choice could work so well that our current projections—projections that we submitted to the Committee in our proposal through 2020—could be understated.

Beyond using choice to strengthen the program, beneficiaries will continue to pay 31.5 percent of the premium for part B. In 1997 we will phase out the taxpayer subsidy of the affluent for part B, we will increase the deductibles from $100 to $150, and then increase it $10 every year thereafter. Savings will also be made on the part of Medicare providers, predominantly through reductions in scheduled payment increases. Despite these restraints, providers will continue to enjoy annual growth rates of between 4 and 10 percent over the next 7 years.

Our proposal also aggressively attacks fraud and abuse in the Medicare Program. The GAO estimates that the loss to Medicare from fraud and abuse equals some 10 percent of the program's total spending, and law enforcement officials claim that the majority of Medicare fraud remains undetected. What we propose is to earmark a portion of trust fund money, starting in its first year with $200 million, to use for investigation and prosecution of Medicare fraud.

The CBO has estimated that our provisions in this area will save the program more than $4 billion over 7 years. Under our proposal, reforms would extend the solvency of Medicare for about 18 years. According to the CBO estimates, under our proposal, the Medicare HI trust fund balance will rise $260 billion, at the end of the period expected. What we propose is to earmark a portion of trust fund money, starting in its first year with $200 million, to use for investigation and prosecution of Medicare fraud.
Services. estimates that the Medicare HI trust fund will be solvent throughout about the year 2020. That’s 10 years—10 years—after the baby-boom generation begins to retire, a quarter of a century from today.

Concerning Medicaid, our objective is, again, quite simple, to control the unbridled growth of this program—a rate which reached as high as 30 percent in 1993. Even at its current 10.4 percent, the growth rate is too high. We bring it down to a manageable and more realistic 5 percent. We can accomplish this by adjusting the growth rate of this program back to where it belongs—back to the States. In fact, Governors have said that they can manage the program with the more moderate spending increases if the Federal Government will simply get out of their way.

Medicaid is best addressed by giving States adequate funds and the authority necessary to meet the needs of their most vulnerable citizens, without interference or excessive regulation from Washington. Governors have asked for this authority since 1989, when Bill Clinton, then Arkansas' chief executive, signed a resolution calling for a freeze on the enactment of further Medicaid mandates. By extending States’ authority, allowing Governors the opportunity to find innovative ways to provide for the unique needs of their respective States, we can keep the program at a manageable 40 percent growth rate by 2002, rather than the 100-percent increase in spending now projected by CBO.

Certainly, under this new structure, the States will have certain requirements that must be met. For example, they will be accountable for how Federal dollars are spent. States will spend 85 percent of what they are now spending on mandatory benefits for the three largest populations—low-income pregnant women and children, the disabled, and the elderly. There will also be protection from nursing home costs against impoverishment among the living at home. Like- wise, States will be allowed to use Medicaid funds to see that children are immunized.

We must remember that Medicaid was designed to be an equal partner- ship between the Federal Government and the States. However, the Federal Government in recent years has ex- ceeded what can only be seen as a take-over. Toward this end, all three branches of the Federal Government have played critical roles. Congress and the courts have expanded eligibility while the bureaucracy has paralyzed the States with regulations. The time has come to take this back.

Medicaid now consumes 20 percent of State budgets—20 percent. That means fewer dollars for education, for fighting crime, and rebuilding infrastructure. Several million of Medicaid recipients have increased by nearly one-third, as the current law has cre- ated over 70 different ways for people to become eligible for benefits. Promis-
The tax relief offered in this reconciliation package is very much in the realm of current possibilities. We offer a cut in the capital gains tax that will go into effect only when the CBO has certified that deficit reduction is being achieved. Despite what some may say for political reasons, this tax relief does not come at the expense of Medicare. As the generally non-liberal Washington Post admitted, "The Democrats have fabricated the Medicare-tax cut connection because it is useful politically." In an earlier editorial, the Post opined that

"The Democrats are engaged in demagoguery, big time. And it's wrong...


The Republicans have a plan. Enough is known about it to say it's credible: it's gutsy and in some respects inventive—it addresses a genuine problem that is only going to get worse. What Democrats have on the other hand is a lot of exoposulation, TV ads and scare talk.

That is the end of the quote from the Washington Post.

Under the bill we propose today, universal Medicare savings for tax cuts is illegal. The law requires that money saved on the Medicare Program will stay in the Medicare Program. These are trust funds, the assets of which may not be used for any other purpose. And to say otherwise, as the Post points out, is little more than politically motivated scare tactics.

The fact is, our efforts preserve and strengthen the Medicare trust fund. This is a priority. We and a promise kept. Likewise our efforts bring the Federal budget into balance and provide substantial tax relief for middle-income Americans. Again, promises made and kept. I can only guess that these scare tactics are being used by some because for so long these individuals have gotten by politically by making promises without keeping them. We are not going to cheat or cut both ways. You are either working for the changes the American people want, or you are locked into business as usual. You are either working for reform, or you are an agent of big Government, runaway spending, and political gridlock.

Let this reconciliation package show Americans who stands where on these important issues.

Our plan offers a $500-a-child tax credit, encourages savings and investment, and offers other incentives for economic growth. Our proposal to cut taxes by $245 billion offers relief for our middle-class—over 70 percent of the $245 billion going to families making less than $75,000 a year. These provisions mean more security for our families, more jobs for Americans, and growth in productivity in our communities.

Of the $245 billion Senate relief package, a full $223 billion will go to families. The remaining $22 billion will strengthen businesses and lead to increased opportunity. It will also improve America's ability to compete in the global community, with other nations that provide their businesses with strong incentives to compete with us.

The four pillars of our proposal are:

First, a $500 child tax credit; second, restoration and strengthening of individual retirement accounts; third, relief from double-taxing taxes on families and businesses; and, fourth, reduction of the top rate of capital gains on individuals and corporations.

These measures meet our promise to the American people. They represent a bold beginning in our effort to break with the failed policies of the past. The current tax system double-taxes savings; thwarts investment; hinders productivity; increases prices; stifles wages, and hurts exports. It is complex, controlled by special interest groups, and places disincentives on work.

We move to correct these deficiencies, and because we have cut spending, our bill balances the budget and provides tax relief. Americans need relief. Our economy needs a shot in the arm. Even Bill Clinton has admitted as much. I call on him to join us in our efforts to unleash the potential of America. Let's move us into a bold and exciting future.

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

Mr. MOYNIHAN addressed the Chair.

Mr. MOYNIHAN. Mr. President, will the distinguished Senator from New York yield? I have about three more pages. May I have the floor, Mr. President?

Mr. ROTH. Mr. President, will the Senator from New York yield? I have about three more pages. May I have the floor, Mr. President?

Mr. MOYNIHAN. Mr. President, of course. Could we then extend morning business until 1:30?

Mr. KENNEDY. Reserving the right to object—and I do not intend to object—if we can have the morning business time, whatever morning business there was, divided equally between the two sides, whatever amount of time, since we are off the bill. If we could have the two sides divided time to be divided equally, then I would not object. If we are not going to have that allocation of time, then I feel compelled to object.

Mr. MOYNIHAN. Mr. President, may I make the suggestion that morning business be continued until 1:30?

Mr. KENNEDY. Reserving the right to object—that does not include the last 10 minutes—just from the time we go to morning business, divided equally.

Mr. GRASSLEY. Mr. President, I have to object momentarily for the leader. We want to find out if Senator Dole wants this time extended.

The PRESIDING OFFICER. Objection is heard. The Senator from New York has the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the period of morning business be extended until 1:30 and that the time be equally divided. I believe it is the desire of the majority that the speakers alternate, if that is convenient.

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

Mr. ROTH. Reserving the right to object, may I finish?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. Hearing no objection, without objection it is so ordered.

The Senator from Delaware.

Mr. ROTH. Mr. President, as I was stating, that is what this reconciliation package is all about—the future. As Lincoln said, "The struggle of today is not altogether for today—it is for a vast future, also"—a future that I believe will be very bright if we succeed in our endeavours.

Our objective is to strengthen the American Dream—in our homes, in our schools, in our communities, in our States, and all across the land. Some have said that the dream is dead, that our children cannot expect to lead a better life than that led by their parents. I strongly disagree. However, I do believe that in order to meet the domestic challenges before us—as we look to put our house in order here at home, we seek to maintain influence and leadership abroad, that we must reinvent America to reflect the profound changes that are taking place throughout the world as well as here in the United States.

We must build on principles that are tried and proven good. We know what works. We know what's failed. And we cannot march boldly into the future with blueprints prepared for the past. This reinventing of America must be thorough, it must create a nation that is compassionate, responsible, and economically viable from the houses in our neighborhoods to the Houses of Congress. It must encourage self-reliance, risk-taking, and the confidence that diligent labor will be rewarded with security and even greater opportunity for reward.

These are the principles that built America, and they are the principles that will see us into a bright and expansive new millennium.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senate recessed.

Mr. MOYNIHAN. I wish to congratulate the chairman of the Finance Committee on a very thoughtful and deeply felt exposition of his views. They are not entirely shared on this side, but they are, nonetheless, admired for the grace in which he has presented them.

REPUBLICAN BUDGET PLAN

Mr. MOYNIHAN. Mr. President, earlier in the day, this morning, I was
Third, this reconciliation bill includes medical savings accounts. An idea that I was the first to introduce in the Senate. These accounts will give families independence and choice on health care, the opposite of the President’s approach. It delivers security without bureaucracy, providing families the resources to care for their own needs.

The centerpiece of this reconciliation bill is a balanced budget. In the future, this will be recalled as our contribution to this crisis. We ignore our budget crisis, the child born this year will pay $187,000 over his lifetime just for interest on the national debt.

The argument for a balanced budget comes down to something simple: It is one of our highest moral traditions for parents to sacrifice for the sake of their children. It is the depth of selfishness to call on children to sacrifice for the sake of their parents.

Mr. President, we continue on our current path, we will violate a trust between generations and earn the contempt of the future.

There is no doubt we must balance the budget. But in passing this bill, we will accomplish more, because this bill displays a passion for limited Government. Yet it also displays compassion for American families. It finally returns responsibility to the Federal budget. Yet it also helps return abused and abandoned children to adoptive families.

It will improve the long-term health of our economy, and yet it will also deliver short-term help to families and to children, relief that will be felt next year and every year beyond.

These are not sideshows or distractions. This plan includes real relief that will be felt and appreciated by the American people. But that relief is specifically directed toward families with children. This is actual, meaningful compassion. Not the synthetic, failed compassion of Government programs.

Mr. President, we have come to the beginning of the end of deficit spending in America. We have come to this place because there is no alternative. The American people, and that relief is something to say we are serious about deficit reduction and then to have $245 billion of tax giveaways is like saying to somebody we are going to put you on a strict diet but first we are going to give you dessert. It is a huge contradiction. I do not find people in cafes in Minnesota saying to me: Senator WELLSTONE, we are serious about deficit reduction, but would you first give us more tax breaks? That is not what I hear from people. They know it is a huge contradiction and that you being cannot dance at two weddings at the same time. It makes no sense.

Second point. Mr. President. $89 billion is the GAO figure for trust fund. Instead, we have $270 billion. People in Minnesota know how to add and subtract. What we have going on here on the floor of the U.S. Senate today is no less than an effort to move Medicare the piggy bank for tax cuts, or tax giveaways. That is bad enough. What makes it worse is it is tax giveaways in inverse relationship to those people who least need the tax breaks. Mr. President, that is simply unconscionable.

The third point. This is a rush to recklessness. I was surprised to hear my colleague from Iowa talking about his amendment that relief is more than rate of medical inflation. I tell you right now that our hospitals and clinics in rural America. In greater Minnesota, do not have the large profit margin; that is point one. Point two, the amount they have, the highest of their patient mix—60 percent. 70 percent.

I am saying to people watching this debate this is that in rural America, many of the people that come to our hospitals and clinics are elderly. Medicare is hugely important for them. That makes up a large share of the payments that go to these hospitals. They do not have a profit margin. They have a large percentage of the population that are elderly. I do not feel upon adequate Medicare reimbursement, and you have in your formula 25.5 percent less than the rate of inflation. In rural Minnesota and in North Dakota and in Kentucky and in rural Iowa, the rural heartland all across this country, the issue. Mr. President, is not just whether we can afford a doctor, it is whether we can find a doctor.

This is a rush to recklessness. This is a fast track to foolishness. Ask your providers, ask your nurses, ask your pharmaceutical assistants, ask your doctors, ask your elderly, ask their children, ask their grandchildren. What you are about to do is very reckless with the lives of people.

Mr. President, I will tell you something. I just get more than a little bit angry when I see this stereotype, and hear this stereotype about the elderly. You would think that the elderly are a bunch of ‘greedy geezers’ that are traveling all over the country playing golf at the swankest golf courses there are. Mr. President, in my State of Minnesota, 70,000 seniors live below the Federal poverty line. In my State, of the 635,000 Medicare recipients, half of them have annual incomes under $20,000 a year. Mr. President, in my State of Minnesota, of the 635,000 Medicare beneficiaries, they are paying, on the average, over $2,000 out-of-pocket. Right now, for many seniors, catastrophic health care costs are a nightmare. They are terrified of prescription drug costs.

Mr. President, what we have here is an effort to move Medicare the piggy bank for tax cuts—rather tax giveaways, which flow in the main to the highest income citizens of the United States of America. There is no standard of fairness behind this proposal. People will see through it.

The second thing that is so unfortunate, so unconscionable, so unthinking about this proposal, is its impact on the people of this country. Mr. President. $89 billion is not $270 billion. Please do not tell senior citizens their premiums will not go up. Their copays will not go up, and in no way, shape, or form do you have to worry, and your hospitals, clinics, and providers will all get adequate reimbursement, and eligibility—will not change, and we will just take $270 billion out of this health care sector.

Mr. President, senior citizens do not believe it, they should not believe it. That is why this amendment that will be laid down by my colleague, the Senator from West Virginia, deserves the full support of every Senator in this Chamber. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.
Mr. DOLE. Mr. President, the pending business is what?

The PRESIDING OFFICER. S. 1357 is the pending business.

Mr. DOLE. It is my understanding that the ranking member, Senator EXON, is now prepared to offer the Medicare Amendment. We have not yet reached an overall agreement. So I cannot say it will not be second-degred, or whatever. At least we can start on that amendment. I guess it is a motion to recommit. I did not see the leader on the floor. I think we can start on it. This would give us some time to start talking back and forth.

Mr. DASCHLE. Mr. President, parliamentary inquiry. How much time has been consumed thus far?

The PRESIDING OFFICER. The majority leader has used 1 hour 15 minutes, and the minority leader has used 30 minutes.

Mr. DASCHLE. Mr. President, it would be our intention to devote an hour on each side for the majority amendment.

Mr. DOLE. On each side?

Mr. DASCHLE. An hour on this side, and whatever amount of time the majority would care to use.

Mr. DOLE. I ask unanimous consent that we have an hour on each side on the motion to recommit.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Nebraska is recognized.

Mr. EXON. Mr. President, in view of the agreement just reached, we are prepared to offer the Medicare amendment. I hope that the chair will recognize the Senator from West Virginia for whatever time he might need. I remind you that we have an hour each, which can be divided between the managers of this particular amendment.

Mr. DOLE. Mr. President, we will later debate what the Senator from Minnesota is about to offer. I have a statement of figures, which show that about $477 million per year would go into Minnesota to help families with children. I assume those families with children would be happy to have tax relief.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

MOTION TO COMMIT

Mr. ROCKEFELLER. Mr. President. I move to commit Senate bill 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, to include any amendments that the Senate is not in session, making changes in legislation within that committee's jurisdiction to eliminate any reductions in Medicare beyond the $89 billion necessary to maintain trust fund solvency through the year 2006 and to reduce revenue reductions for upper-income taxpayers by the amount necessary to ensure deficit neutrality.

The PRESIDING OFFICER. Was the Senator asking unanimous consent?

Mr. ROCKEFELLER. No. The Senator was laying down a motion, and the Senator wishes to speak on that motion.

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

The text of the motion to commit is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President. I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any amendment that the Senate is not in session making changes in legislation within that Committee's jurisdiction to eliminate any reductions in Medicare beyond the $89 billion necessary to maintain trust fund solvency through the year 2006 and to reduce revenue reductions for upper-income taxpayers by the amount necessary to ensure deficit neutrality.

Mr. ROCKEFELLER. In about 2 hours, I guess, every U.S. Senator will be asked to vote on the future of a program that makes the difference between security and insecurity, peace of mind and terror, health and illness, sometimes, life or death for 30 million older Americans— including 330,000 seniors from my own State of West Virginia.

We offer this amendment, Democrats, to give Senators one more chance to preserve Medicare, and stop the destruction of one of America's proudest, most enduring achievements.

We make this very straightforward proposition with our amendment to save Medicare.

This amendment calls for sending the Medicare program back to the Senate Finance Committee, and says Medicare should not be cut beyond the $89 billion needed to keep the trust fund solvent for another 10 years. That means we want to restore the $181 billion of unnecessary, dangerous Medicare cuts back to the trust fund, back to the health care system that seniors depend on every single day of their lives.

This amendment is a final opportunity, quite frankly, for our colleagues on the other side of the aisle to defend the Medicare trust fund from a mind boggling raid that will cut health care benefits, increase seniors' costs, and threaten the very existence of hospitals—a raid that is designed purely to handle, with virtually none of the guarantees which States are not ready, in fact, to handle, with virtually none of the guarantees left for Americans hurting the most.

The response on the other side will be that we are exaggerating, that we are trying to scare seniors, that we are not understanding.

Mr. President, this budget is a scary budget. It is a very scary budget. I am the very first to admit that I fear for my State. I fear for 330,000 older West Virginians. I fear for the health care system in America. I do not say this as a Democrat or as a Republican. I say that as a citizen of the State of West Virginia. I am afraid of the consequences of what it is likely we are going to do here, and hence this amendment.

When the very people who are trustees of Medicare say only $89 billion is needed to keep the trust fund solvent for 10 years, it is frightening to see a budget that sucks $270 billion out of the Lifeline for older Americans. This is what older Americans are now coming to truly believe on their own, not because of what we say but because of what they are beginning to find out on their own. Their fear is genuine and justified.

Today, we offer one last chance to Senators to protect Medicare and older Americans. Vote for this amendment to ensure the solvency of Medicare for another 10 years. There is plenty of time for a bipartisan, thoughtful effort...
congressional-record-senate:s 15617

October 25, 1995

Mr. DORGAN. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. ROCKEFELLER. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. DORGAN. Mr. President, we have 280 billion over the next 7 years—previously reported as 300 billion—of which $270 billion is needed to protect the trust fund in Medicare. We offer this amendment to remind the American people about Medicare—what it is, what it means, and that it is a program that 97 percent of the American people feel is necessary.

Mr. DORGAN. Mr. President, this Republican bill becomes law, it will devastate the Medicare citizens, working families, and children of every community in America. It is a transparent scheme to take from the needy to give to the greedy. It makes a mockery of the family income that the Republican majority pretends to represent.

The Republican assault on Medicare is a frontal attack on the Nation's elderly. Medicare is part of Social Security. It is a contract between the Government and the people. It says: "Pay into the trust fund during your working years, and we will guarantee good health care in your retirement years."

It is wrong for the Republicans to break that contract. It is wrong for Republicans to propose deep cuts in Medicare in excess of anything needed to protect the trust fund. It is doubly wrong for the Republicans to propose deep cuts in Medicare in order to pay for tax breaks for the wealthy.

The cuts in Medicare are too harsh and too extreme. Mr. President, $280 billion over the next 7 years—previously reported as $300 billion—of which $270 billion is needed to protect the trust fund. We offer this amendment to remind the American people about Medicare—what it is, what it means, and that it is a program that 97 percent of the American people feel is necessary.

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the hit on Medicare—to reduce the hit on senior citizens.

Do you know what? We could not get that passed. It was a party-line vote. Every single Member of the majority party voted against that simple amendment.

This debate is about choices and priorities. Our choices are to save Medicare or to double the deductible in the private sector. We do not need to injure the Medicare Program and place a higher burden on senior citizens in order to provide a tax cut to the richest Americans. That is a terrible choice and I hope Members of both sides of the aisle will vote for this amendment offered by Senator ROCKEFELLER, Senator KENNEDY, and others.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President. I ask the Senator from New Hampshire or the Senator from Michigan—a number of questions have been raised on this side. We have been listening for an answer from the majority party as to whether or not they will be able to keep their own doctor. And one of the things that most scares me is the fear they are going to lose their right to choose their own doctor.

I say this with a special feeling because, over the last couple of years, when we were debating health care, that was one of the things that was absolutely going to be able to happen. People are going to be able to have their own doctor. But there is this enormous movement in the private sector to move people into health maintenance organizations to cut costs down.

I read this, this morning, in the newspaper, that Washington General Hospital, now DC General, which is kind of a hospital for the people of Washington DC, is thinking, now, of closing down, merging with Howard University. That is happening now in the private sector. I hesitate to even imagine what happens if you take tens of millions of dollars away from them, or institutions like them, over the next number of years.

How many essential services in our city—I know in the city of Chicago. I know either seven or eight emergency rooms of hospitals have closed down under the current free-market system. And the exacerbation of all that, under these drastic Medicare cuts, is something which I think is truly terrifying.

Mr. KENNEDY. Just finally, if part B goes up, that is directly deducted from your Social Security check. Do you anticipate that part B premiums will go up, and, therefore, the Social Security checks will be affected for those in West Virginia as well?

Mr. ROCKEFELLER. It is not necessary to anticipate it. It is a fact. They will go up. They will double.

Mr. KENNEDY. What is the impact on the Social Security check?

Mr. ROCKEFELLER. Just more money out of pocket. Of course, the ironic thing is 40 percent of what it is that the majority party is cutting out of Medicare—$100 billion—will even be used to help the trust fund, cannot even be used because it is from part B.

I yield to the Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding.

Mr. ROCKEFELLER. The Senator does not have to answer.

Mr. HARKIN. I will be happy to respond to the question in the context of his timeframe. It seems rather unusual in speeches to be propounding questions and not wish to seek response.

The PRESIDING OFFICER. Does the Senator—

Mr. ROCKEFELLER. No: the Senator is not going to engage in this kind of game. It is clear the majority does not want to answer some of these basic questions that I will call on the Senator from Iowa.

Mr. WELLSTONE. Mr. President, while we are waiting I would like to be added as an additional cosponsor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. There are Democratic Members on their way down here to speak. They have not gotten down here to speak, and I hope they recognize they will have to get here very shortly. But I will yield myself.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, one of the things that most concerns me about all of this is the concept of senior citizens being able to keep their own physician. And one of the things that most scares me is the fear that they are going to lose their right to choose their own doctor.

I say this with a special feeling because, over the last couple of years, when we were debating health care, that was one of the things that was absolutely going to be able to happen. People are going to be able to have their own doctor. But there is this enormous movement in the private sector to move people into health maintenance organizations to cut costs down.

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Mr. KENNEDY. That is not necessary to anticipate it. It is a fact. They will go up. They will double.

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I yield to the Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding.

Mr. ROCKEFELLER. He makes an excellent point to the Senator from Massachusetts.

This comes right out of the Social Security checks. That is where it is coming from. It is not coming from some other place when an elderly person goes to a Social Security check. The amount that they pay in that monthly premium is going to double under what the Republicans have before us.
Mr. President. Halloween is just around the corner. It is trick-or-treat time. That is a trick-or-treat bill. The trick is on those seniors, and the treats are the $245 billion tax cuts for the wealthiest in this country. That is what it is. They are saying we are trying to scare our seniors. It is not a scare. It is an actual assault on the seniors of this country so that we can treat the wealthiest.

What is this debate really about? Mr. President, here is what the debate is about. Is it about whether or not the majority leader is saying he is proud of the fact that he voted against Medicare in 1965 because he says, "We knew it wouldn't work." It will not work? Prior to 1965, only 99 percent of our elderly had health care. Today, 99 percent of our seniors have health care coverage. Tell me it has not worked. I want the majority leader to come out here on the Senate floor and tell the American public that Medicare has been a failure. That it has not worked, that he was right in 1965 when he voted against it. I wish he would tell me. I wish he would tell me. I wish he would tell me about his own family.

When my father was on Social Security and an ex-coal miner, we had no income. All he had was a Social Security check. We lived in a small town of 150 people. He had black lung disease. He was in his seventies. He had no health care. He had no money. We had no life savings. We had a little house and a half acre of property.

Every winter he would get sick and then we would have to take him in to Mercy Hospital in Des Moines, and thank God, the Sisters of Mercy would take care of him, and they would send him home. It happened like clockwork every year. That was the only health care he had when he was sick as a dog and they would have to rush him to the hospital. But before he died, Medicare came into existence in 1965. And the last five years of his life was by far the best years he had in his later years because then he could get health care. He got it when he needed it, not later on when he was so sick. But he got it quickly, and the nurses with his head held high and not coming in the back door to get charity.

I often think that if my father had had Medicare during the 1930's and in the early 1950's, he would have lived longer and he would have been a lot healthier.

So the majority leader better not try to tell this Senator that Medicare was a mistake. I will not let you do that, at least. I have seen too many in my own family. I have seen too many elderly people in Iowa who, before 1965, did not have health care living in those small towns and communities. Their lives were a whole lot better and healthier. And their children's lives were made better because Medicare came in and provided health care for the elderly.

I delight in talking to young people and telling them what it is just for the elderly. I do this a lot of times with college students. I always ask them. I say, "How many of you have grandparents that are on Medicare?" A lot of hands I say, "After you get out of school and you start earning money, for every $100 that you earn, how much of that money is going to go into the Medicare trust fund to pay for Medicare? Out of every $100 you earn, how much goes in so that your grandparents get Medicare?" I tell you, you should hear the answers I get: $20 out of $100, $10 out of $100, and all kinds of wild guesses. When I tell them $1.45, for every $100 they earn, they spend $1.45 so their grandparents do not have to live with them, so their grandparents get quality, affordable health care. They are amazed.

I asked them, "Do you think it is worth it? Is it worth $1.45 out of $100 to put into the Medicare trust fund?" When you put it that way, they think it is a darn good investment.

So, yes. We have some problems with the Medicare trust fund. long term, short term, and we can address those. The other side is always talking about the trust fund to say it is broke and we have to fix it. There is nothing in the trustees' report that says we have to take $270 billion out of Medicare. That is what the Republicans want to do—to give a $245 billion tax break for the wealthiest in our country.

Our amendment does is send the bill back to Finance, and come back with an $8 billion cut in Medicare to save these seniors so we can keep it, and to save it for our elderly. Let us not have this trick-or-treat bill that the Republicans have brought out here to trick our elderly and to take away their hard-earned savings and put it in a $245 billion tax break for the wealthiest in our country. That is what this battle is about. Make no mistake about it.

I yield back my time. I thank the Senator for yielding me that time.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 28 minutes remaining, and the Senator from Michigan has 60 minutes.

Mr. ROCKEFELLER. Does the Senator from Michigan wish to allocate time to anyone?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER (Mr. Fahey). The Senator from Michigan.

Mr. ABRAHAM. At this time I yield myself such time as I may need, and I will be very brief. Then I will yield to other Members—the Senator from New Hampshire, who has been in the chair.

We have obviously been hearing a number of claims, accusations, and attacks both about the motives of the Republicans as well as the substance of the legislation before us. I know that other speakers will get into more detail in responding, but I will just point out a few things.

The comments with respect to the composition of the part A trust fund are not just whimsical comments. They are inaccurate comments, and they are very important comments to America's seniors. They should know today that starting in 1996, for the first year the part A trust fund will begin to run a deficit. We are no longer talking about problems that are somewhere out in the future that we cannot visualize. We are talking about concrete problems that you have to be aware of us in the very immediate sense soon.

Just last year we heard from the entitlement commission, a bipartisan group of Members of Congress who reported to us that at the rate of growth in entitlement spending in this country in just 15 to 20 years, entitlement spending and interest on the Federal debt alone would exceed all Federal tax collections combined. These are not problems that can be fixed by the old process of finding a few extra dollars here and there, even the Medicare trust fund. These are problems that can only be fixed through substantive changes of the sort which we are offering here.

The Medicare Program is like a ship that is badly damaged. It is leaking water on both sides. You can deal with the problem. You can pour more water over the side and try to bail your way out, but that will not solve the problem in a long-term sense. The alternative is to be very careful about what it is we are trying to do because we do not want to just guarantee that Medicare will be safe for an additional 1 year or 2 years. We want to change the program to make it much stronger to protect it, to preserve it well into the future. We want to give seniors the right to choose a program that is best for them. And we want to make sure that we do that in a way that not just covers us for the next election but, rather, in a way that truly protects seniors in the long-term sense.

And so at this time, I will yield the floor and grant whatever time he may need to the Senator from New Hampshire.
been put into this bill is to significantly strengthen the program which has cared for our seniors well but which was designed in the 1960's and which is not functioning well as we move into the year 2000. It is like a 1960 automobile trying to drive on a turnpike in 1985. The fact is that the muffler has rusted so that the pistons are not working very well, the chassis is out of line, and it needs to be fixed.

In fact, it needs to be significantly strengthened, and that is what we have proposed. The basic thrust of the Republican plan is to give seniors essentially the same options which Members of Congress have.

Now, why is that so outrageous? We are saying to seniors. You shall have choice. You shall have the ability to go into the marketplace, if you wish, and choose other options than what you are presently supplied under Medicare. We are not saying they have to do that. In fact, we are making it very clear, under that assumption if a senior decides to stay with fee for service, which is what most seniors have today, which is where they go out and choose their doctor individually, they can continue in that framework, they can continue to do what they have been doing.

What we are saying, however, is if they should choose, they will have other choices. If they should choose, as like many people, their sons and daughters who are in the workplace, to go with some group of doctors who practice together in what is known as a PPO, they will have that option. If they choose, as many of their sons and daughters do today who are in the workplace, to go with an HMO, where you have an affiliation of doctors and hospitals and delivery systems, they will have that option.

There are a variety of other options which we have not mentioned because the marketplace has not made them yet that we will make available to our seniors.

And in giving our seniors those choices, what do we do? We do say we are going to give you some economic benefit from being a thoughtful purchaser of your health care. Under the Senate plan, if a senior chooses a plan which delivers the same or better care than they are presently getting from their fee-for-service plan but happens to cost less, we are going to allow the senior to keep that savings. We are going to create an incentive amongst seniors to look at other options. We are not going to say they have to look at them. We are not going to say they even have to take them. We are simply going to say you have that option.

So what is so dastardly about giving seniors the same option which Members of Congress have? I do not understand it myself. But the other side is outraged for some reason. I think their opposition functions more from politics than from substance.

Let us talk a little bit about substance, about some of the points that have been made by the other side.

First, they say there is a $270 billion cut. That is an interesting concept. Only in Washington would a program where you should be increasing spending by $346 billion over the next 7 years be deemed a cut in spending.

This is the chart, ladies and gentlemen. Medicare spending goes up $349 billion under the Republican proposal. I apologize—$349 billion over the next 7 years. That is a cut in spending? It still remains, under that spending increase, the fastest growing, most significant expenditure in the Federal budget. In fact, if you compare the rate of growth of Medicare spending over the next 7 years to the rate of Medicare spending over the last 7 years, you would have to conclude that over the last 7 years we "savage it," under the Democrat terms, because in the last 7 years it grew to $293 billion spent on Medicare, but over the next 7 years we are going to spend $1.5 trillion on Medicare.

So clearly, what you are doing here in spending on Medicare. In fact, per beneficiary, spending on each beneficiary will go up by approximately $2,000 between this year and what would be spent on that beneficiary in the year 2002.

We heard this equally rather interesting argument: Well, there are going to be more people in the system therefore, more should be spent. Actually, demographically, there will not be a significant increase in seniors going into the system until we hit the year 2007. So that is not an accurate statement on its face.

We heard the statement of essentially, well, but really, to meet the obligations of Medicare we have to spend $8,700, or something like that, per senior in the year 2002. What does that presume? It presumes a rate of growth of Medicare which would be 10 percent per year for the next 7 years—10 percent per year. If that is what my colleagues are saying, they have just signed on to a prescription which the Medicare trustees have said will lead to bankruptcy, because it is that 10 percent rate of growth that the Medicare trustees themselves, three of whom happen to be members of this administration, stated was totally unsustainable—totally unsustainable—and that if it is allowed to continue at that rate, Medicare will absolutely continue to grow at an annual rate of 10 percent, the trust fund becomes bankrupt.

They gave us a rather definitive chart, which reflects that, and that is this chart here. It is a plane crash, ladies and gentlemen. A 10 percent rate of growth leads to insolvency in the trust fund in the year 2002. So when my colleagues on the other side of the aisle say, "But you are not increasing spending enough when you are increasing spending by $2,000 per beneficiary over the next 7 years, you have to increase it by another $2,000," what they are really saying is we want insolvency of the trust fund.

We heard some other rather interesting comments, something about, well, the trustees never said that there had to be anything like $270 billion saved in order to accomplish the rescue of the Medicare trust fund. I think my colleagues from the other side of the aisle pointed out the $270 billion in the trustees' report where that occurs: all we need is $89 billion.

I strongly suggest that my colleagues on the other side of the aisle read the trustees' report. I will read it for them.

I have to put on my testicles that once in the trust fund fails to meet the trustees' test of long-range close actuarial balance by an extremely large margin. To bring the HI program into actuarial balance even for the first 25 years it would take $386 billion—$386 billion—which requires an increase in the HI payroll tax of 2.0 percentage points per employee or employer each or a comparable reduction in benefits.

What does that language mean in English if you convert it to numbers? That means that under the current assumption, you would require an increase in the HI payroll tax of 2.0 percentage points per employee or employer each or a comparable reduction in benefits.

And then we have heard, "But the principle of our program is going to double. That is a very interesting argument, because it just happens to ignore one major point. This plan that the Republicans have put forward does not increase the burden of the seniors over the percentage of premium that they pay in the part B premium.

Under the part B premium—I think this should be explained for those who may not be familiar with it. I know most in this room are—but under the part B premium, the senior citizen pays 31 percent of the cost. The general taxpayers, specifically the senior's children and grandchildren who are working, pay 69 percent of the cost.

Under the Republican proposal, the senior citizen will continue for the next 7 years to pick up 31 percent of the cost of his or her part B premium, and his children or her children and his grandchildren or her grandchildren will continue to pay 69 percent of the cost of the part B premium.

We do not change that. Sure, it goes up. Health care costs go up. Of course it is going to go up. But as a percent of the cost, the burden between the senior citizen and their children who are paying the taxes, the subsidy, it will remain the same. Now, if
we are to follow the logic of my colleagues from other side of the aisle, what they are saying is that the subsidy that the senior citizens’ children should pay and their grandchildren should pay should go up.

That is the only logical conclusion from what they are saying. They are saying that the senior citizens’ children should receive a greater subsidy from their children and their grandchildren, so that they will not be paying 31 percent of the cost of their part B premium, so that they may be paying 28 percent or 26 percent of that cost. Who is going to pick up the difference? The senior citizens’ children and grandchildren.

Their commitment, their subsidy to that premium paid for by the children and grandchildren of seniors will go from 69 percent to 70 percent. 75 percent. I do not know where they are going to end that number. But essentially they are pandering, on that side of the aisle, to the constituency at the expense of another constituency. It is basically generational politics that are being played. What we have said in our bill is “Listen, there’s a fair distribution of subsidy between seniors and their children, the wage earners and the payers of their subsidy. Sixty-nine percent is paid for by their children; 31 percent by the seniors.” We are saying we should continue it in that proportion. We are not suggesting it be changed at all.

I think most seniors in this country would view that as a reasonable approach. I find very few seniors in this country who wish to pass on to their children either, one, a country that is bankrupt, two, a Medicare trust fund that is bankrupt, or, three, feel their children should be hit with a further charge for bearing the cost of their health care. What else do we say in this plan? We say, let us ask the wealthy senior citizens to pay the whole cost or at least a larger percentage of the cost of the part B premium. You explain to me why a person who is working 40, 50, 60 hours a week on a computer assembly line in New Hampshire or at a restaurant or at a garage, why that person should feel their children should be hit with a further charge for bearing the cost of their health care.

Under the present law, the top 100 retirees from IBM may make $150,000 a year when they retire. And they have a 69 percent subsidy of their part B premium paid for by John and Mary Jones who are working real hard just to make ends meet and take care of their families. It is not right. We are doing this correctly that in this bill. We have said if you have more than $75,000 as income as an individual, more than $120,000 of income as a married couple, then you have to begin paying a higher percentage of your part B premium. In fact, if you in fact, if you come into the real high levels, $120,000. I think it is for individuals and $150,000 or $160,000—I have forgotten the number for married folks—then you will not get any more subsidy.

What is wrong with that policy, my friends? Who is talking about income transfer from moderate income to wealthy, this part B premium, as it is presently structured, is the ultimate in the wrong way to approach income transfer. So we corrected that.

This whole premium argument is really inaccurate, as I mentioned a number of other points they have made. And then I think the core issue here becomes this question of solvency. How do you make the trust funds solvent so that we will have it, so that their children will have it? And what we have proposed is to put in place a system which generates a marketplace competition atmosphere which will help control the rate of growth of costs.

As I mentioned earlier, the trustees have made it very clear that a 10-percent rate of growth of the Medicare trust fund leads to bankruptcy. It leads to bankruptcy. This horizon of this generation. It seems that some of my colleagues on the other side are willing to accept a 10-percent rate of growth. The trustees were not. I am not. Republicans on this side are not.

So what we have proposed is to try to slow that rate of growth from three times the rate of inflation to twice the rate of inflation. That still is a very generous increase. As I mentioned, if you compare it to what is happening in the Medicare trust fund over the next 7 years. It is not a dramatic reduction in the rate of growth. You are still talking about a rate of growth which is twice the rate of inflation. In fact, if you compare it to what is happening in the private sector in health care, it happens to be six times the rate of growth of premium costs in the private sector today.

Let us take an example, the health care system which all of us here in the Congress benefit from has actually dropped in the rate of growth of our premium costs. Why? Because there was competition. That is what this chart shows. What we are suggesting is that seniors should have those same types of choices that we as Members of Congress have, and as a result we hopefully see a significant drop in the rate of growth in premium costs.

What we are projecting is a drop of 30 percent. We are not even expecting to get the same drop as in the Congress. But this is a reasonable drop. That is what this chart shows.

Instead of a 10-percent rate of growth, which my colleagues on the other side seem to be ready to endorse, this which leads to bankruptcy, we are saying let us have a 6.4-percent rate of growth.

Ironically, the President, when he sent his budget up here in June—it was just a sheaf of papers that did not happen to be in other meeting areas—the numbers in the Medicare area were not that far from our number. In fact, they were a lot closer to our number than they are to the 10-percent which my colleagues on the other side of the aisle seem so enthused for because the administration under- stands that it cannot absorb a 10-percent rate of growth in the Medicare trust fund.

So we have put forward a plan which will lead to a slowing of the rate of growth of the Medicare trust fund to stop percent approximately. And how do we do it? We do it by using the marketplace and by giving seniors more choices, more options, a stronger health care system, rather than a weaker health care system. From my standpoint, that is what reforming and improving and strengthening the Medicare system is all about. That is what this whole issue is all about.

We have heard a lot of misrepresentations on this by the other side of the aisle already. We have only been at this for, what, about 45 minutes of debate from the other side of the aisle, and we have already heard about seven major misrepresentations, all of which I have noted.

I would hope, however, as we go into the rest of this debate, that we will have some integrity in the discussion, we will get back to talking about what we need to do in order to make the Medicare trust fund solvent, and get off of this issue of trying to scare seniors through politics, versus addressing the issue through substance. I thank the Senator from Michigan and yield the floor.

Mr.roeCFELLER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDENT OFFICER. The Senator from West Virginia.

Mr. roCFELLER. I yield 30 seconds to the Senator from Iowa.

The PRESIDENT OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I just have to respond to my friend from New Hampshire. He is absolutely wrong. Here is a statement of a managing trustee of the Social Security trustees. Let me just read this paragraph:

Simply said, no Member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis. That would be factually incorrect.

So I urged my friend from New Hampshire, he is incorrect. The trustees never said, and in fact here is a statement just to the contrary, as the managing trustee said, it would be factually incorrect to say that $270 billion in cuts were recommended by the trustees. That was never the case.

Mr. roCFELLER. Mr. President, I yield 4 minutes to the Senator from Louisiana.

The PRESIDENT OFFICER (Mr. Greg). The Senator from Louisiana.

Mr. Breaux. Mr. President, I thank the manager for yielding the time. I
was in the New Orleans Airport coming back from Washington one time during the debate on health care 2 years ago. The lady came up to me in the airport and said, "Senator, are you all working on health care in Washington?"

I said, "Yes, ma'am, we sure are." She said, "No matter what you do, please don't let the Federal Government take over my Medicare."

This was a senior citizen who thought the Medicare Program was working just fine. She thought it was the best thing she had. She was taking care of her and taking care of her family. But it showed how concerned they were about Congress messing with Medicare.

Today, Congress is messing with Medicare in a way that is not necessary and is not essential.

Mr. President, 77 percent of the people in my State of Louisiana, who are on Medicare, earn less than $15,000 a year. Do you wonder why a lady comes up to me in an airport and say, "Please don't mess with Medicare?"

Because if we destroy Medicare, where are these people going to go? I think if they earn $15,000 a year, $15,000 a year is something that they do not even think exists, that nobody can be that poor. I say that because I noticed a quote in the paper this morning from one of our colleagues in the other body which I think is just terrific and it says something about how some people think. A Congressman from North Carolina said:

When I see someone who is making anywhere from $100,000 to $750,000 a year, that's middle class.

Middle class? It is not middle class in Louisiana. It is not middle class for 100 percent of the people who are on Medicare in Louisiana who earn less than $15,000 a year. A week ago, the Senator from Louisiana was not happy that the House and the Senator from Louisiana were not happy, if you don't agree with the Senator from Louisiana, if you don't agree with him, if you don't agree with the Congressman if middle class is people earning up to $75,000, we do not even need Medicare. Let them go buy private insurance. Maybe let them buy a horse. I know that much money, buy their own doctor.

But, Mr. President, seriously, we are talking about people who can least afford to be left without some kind of security in their senior years with Medicare.

Why is the Republican plan cutting $270 billion? Very simple. no magic about it: They need it to pay for the tax cuts.

The House created this. It was created over there. It was conceived over there. It was born over there. They decided they wanted to put the cart before the horse. "We are going to decide if we want to cut taxes by over $300 billion. You know what, we have to pay for it."

"How are we going to pay for it?"

"Oh, let's have a health care idea. Let's cut Medicare. Let's cut Medicaid. Let's cut earned income tax credit. Let's cut welfare. By golly, that will do it."

So, today we have $270 billion taken out of Medicare, not to fix Medicare. This is not reform of Medicare. It is the same old status quo. It just has less money in it, by $270 billion. Is that needed? No. It is very clear that action as clearly you can fix Medicare; you wear green shades. They are not Democrats or Republicans, they are actuaries. CPA's. What do they say we need to do to fix Medicare? It is very clear. The actuary for Health and Human Services says clearly you can fix Medicare to the year 2006 by reducing the spending $89 billion.

Guess what the Democratic package does? It reduces spending by $85 billion, not $270 billion. Is that more or less needed? You wonder why the people come up to us in airports and on Main Street and say, "Don't let Congress take over Medicare, because they are scared to death we might do exactly what this plan does: It rips it up, it cuts it up in an extreme manner and not to fix it. There is not a real innovative idea in their plan. But there are a lot of cuts, and the cuts are more than necessary.

That is clear: that is simple. Non-political people have said it. and we should get about the business of fixing it with $89 billion, which is difficult to do but must be done, and then I will suggest a bipartisan commission, with our colleagues on the Republican side working with us to come up with a long-term fix. It. "ain't" going to get done by themselves, and we are not going to do it by ourselves. Do the short-term fix, appoint a bipartisan commission and get the job done.

Mr. DORGAN. Will the Senator yield? We saw somebody stand up with a chart on the other side of the room and say, "What cut? We are not cutting Medicare." Can the Senator respond to that?

Mr. BREAUX. It is $270 billion less money than they had last year. You can call it whatever you want to call it, but if it looks like a duck, walks like a duck and quacks like a duck, it is probably a duck where I come from. This is a duck.

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

Mr. ROCKEFELLER. I yield 5 minutes to the Senator from Nebraska.

Mr. KERNEY. Mr. President, I hope the Senator from Louisiana was not referring to me in his animal comparison.

I regret to say I support this amendment, not because I believe that it is the wrong bill, no, but because Medicare does need to be reformed. I do not believe, in fact, we need another bipartisan commission. We have a bipartisan commission recommendation that lays out what needs to be done long term with Medicare. Unfortunately, in the budget resolution, we do not do that. Unfortunately, in this reconciliation agreement, we do not do that. What we have is we have identified a short-term need. which is to come up with money to fund a series of tax breaks, and we are using, among other things, significant reductions in Medicare over the next years to do it. And worse. Mr. President, we leave the long-term problem unchecked. If you doubt it, just look at the cost of mandated programs this year versus the cost of mandated programs at the end of the last period. It is over. I seriously doubt that this body or the House is going to be able to hang in there and vote these kinds of cuts over the next 7 years.

At the end of this budget cycle, at the end of this 5-7-year period, we will have 25 percent of our budget for appropriated items. That will be $400 billion this year for defense and nondefense, and anybody with just a rudimentary understanding of the budget would know it is unlikely that we are going to be able to get the job done.

First of all, Mr. President, it does, as many have already said, try to come up with savings in the short term in order to be able to fund tax breaks. It leaves the long-term problem unchecked. Do we have another bipartisan commission? There is one that Jack Danforth and I did. It will not be pleasant when you look at the recommendations. The long-term recommendations to phase in changes contain many of the things that are needed by the Republicans, only even more so, but over a long period of time, giving people a chance to plan.

One of the reasons that seniors are frightened by this whole debate is, as many people have already said, their incomes tend to be low. They have a difficult time purchasing insurance and buying health care. It tends to be a very high percentage of their disposable income, and they are terrified that tomorrow they might receive some health care bill that they are unable to pay.

Second, as far as generational warfare, it is the concern of their children not their grandchildren, or hopefully children that they may get stuck with these bills. So this terror that seniors feel does not come as a consequence of Democratic rhetoric, it comes as a consequence of an honest evaluation of income and likely expenditures.

Third, I find objectionable the deals that were made with the AMA, particularly on the House side, to get an agreement over there.

Fourth, it does not reform the system. and really use the marketplace to allow competition. Mr. President, $132 billion of the savings comes from cuts to providers; $71 billion in increased payments by beneficiaries; $43 billion by reducing payments to HMO's; only $2 billion come from increased use of competitive market forces.

Next, rather than taking a step toward universal coverage, which we ought to be doing if we want to have a nurse economy in the late 20th century, when we leave, we leave it to the House. Go out there and be competitive, try to keep your costs under control and still have a civil society, we have to have universal coverage.

Republicans now have reached a conclusion that they want to preserve
Medicare. I suspect Leader Dole will come and say that his remark last night was taken out of context. If you want to know what Medicare is, then you recognize at some point the market does not work. Well, it does not work for an awful lot of people—over a million in 1994 alone—who moved into the ranks of the uninsured.

We need a safety net that provides universal coverage. The problem, of course, is that to be able to do that, we are going to have to dramatically change the Medicare/Medicaid income tax deduction and the VA.

Next, I have heard it said that we want to give seniors exactly what Federal employees have. Please, let us not overpromise again. Our salaries are $133,000 a year. Look at the comparisons. We pay $44 a month; seniors pay $46 and under the GOP plan, it goes to $89. We have unlimited hospital care; theirs is limited. Our prescription drugs are covered; theirs are not covered. We have a deductible of $350; they are at $816. Here are more extensive services under preventive services, an out-of-pocket of $37.50. We do not want to say to seniors—and I have heard it said and I know the marketing is going on and this has been tested very well. Let us not overpromise here. If we say to seniors what we are doing in this proposal is giving you what Federal employees have, there is going to come a substantial and a rude awakening.

In conclusion, Mr. President, I hope that in fact a majority does vote for this amendment. I hope we recommit to the Budget Committee and Finance Committee. I would love to participate now in a bipartisan effort to control the long-term cost of entitlement and mandated spending. I think we are extinguishing our capacity to introduce health care reform, child care—those things we need in an active economy.

Mr. President, most particularly, I hope there can be a bipartisan consensus to the revolution resulting in the value of Medicare, that we need a new safety net that says if you are a citizen or legal resident, you will know with certainty that you are going to be covered.

This proposal takes us away from those goals rather than toward it. Therefore, I support the amendment offered by the Senator from West Virginia. There is a majority of Democrats and Republicans who understand the short- and long-term proposal will vote for this amendment so we can, hopefully, reach some kind of bipartisan consensus on this issue.

Mr. ABRAHAM. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator from Michigan has 9 minutes left. The Senator from West Virginia has 15 1/2 minutes.

Mr. ABRAHAM. At this time, I yield 9 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, on Monday, October 16, there was an interesting article that ran in the Wall Street Journal. At the appropriate time, I am going to ask unanimous consent that it be printed in the RECORD.

The headline says: "Clinton Recruits Campaign Team of 'Nasty Boys' With Reputation as Tough, Savvy Guns."

Then the lead paragraph says:

"Gearing up for 1996, President Clinton is fielding a motley crew of re-election strategists with reputations for shrewdness and ruthless tactics. A mainstay on his team. New York's Mr. Sheinkopf, readily boasts: 'I subscribe to terror.'"

That is a very interesting statement. Mr. President, I have had it put on a chart—we are debating this whole thing with charts—'I subscribe to terror.'

He goes on to say in the article:

"Terror tends to work . . . because it is so easy to make people hate."

Now, back to the article. quoting:

"Mr. Sheinkopf doesn't deny the remarks. But says they were taken out of context. He says he was addressing the strategy for a noncandidate campaign . . . ."

A noncandidate campaign. That is very interesting because what we have running on the airwaves today is a series of television ads that are terrorizing our senior citizens, and this is a noncandidate campaign. Mr. Sheinkopf was the architect of this summer's unprecedented ad campaign on crime.

"This is the next statement that I have here on a chart. He is part of the group that wanted to start the Medicare ads early this summer. Quoting now:"

"The team wanted to attack the GOP with Medicare ads in early September . . . they got the go ahead."

"Again, he said, "I subscribe to terror." That is the statement of the President's strategist on noncandidate campaign . . . ."

There is more in the article. I will quote a few before I turn directly to the Medicare debate. But this demonstrates what we are faced with. As far as the ads currently running on television are concerned. Quoting:

"Already, friends of the administration peg these mercenaries 'The Nasty Boys.' Like Mr. Clinton, many of them are accused of lacking an ideological rudder, allowing them to roam from left to right on policies."

Elsewhere in the article, it says:

"Elizabeth Holtzman will never forget when she first heard about Mr. Sheinkopf. The former New York district attorney was running for Brooklyn district attorney in the 1980s when, she says, her opponent fired off one of the nastiest, sexist ads she had ever heard. . . . She found out the spot was created by Mr. Sheinkopf. Her reaction? She hired him for her next campaign. "'He's very creative,' Mrs. Holtzman says. And, like other members of this media team, he'll bar for most anyone—as long as they are paying clients."

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

Mr. BENNETT. Mr. President, I found this interesting because it demonstrated what is happening to political debate in this country when we are not debating the merits or demerits of the proposal before us. Instead, we are mounting 30-second spots to attack each other in the spirit of terror. That is not my word, but the word of the President of the United States who has chosen to advise him on this particular issue.

By contrast, Mr. President, I am aware of some focus groups that have been held in an attempt to understand this issue, where the Republican plan was described in as neutral a term as possible and the Democratic proposal is described in as neutral a term as possible; they were presented to a group of senior citizens in a focus group, with the first called the Smith plan and the second the called the plan that kept was held, without any prejudice one way or the other. When it was over, they found that by about an 80 percent to 20 percent margin, in virtually every section of the country where this attempt was made to find out people's reaction, the Smith plan out-polled the Green plan. And only then was it unveiled to these people that they had, in fact, by a vote of 4 to 1, subscribed to the Republican position rather than the Democratic position on this issue.

I find this very encouraging for this reason, Mr. President. I go back to the debate in the last Congress over health care when the President unveiled his health care proposal. A very substantial majority of Americans were in favor of it. We on this side of the aisle felt very lonely in our opposition to it, but we were sustained by this knowledge that the President of the United States was for the Democrat position or we are for the Democrat position, the less they approved of it. The more the information got out, the more the polls numbers fell. So that by the time we finally got to the House floor, they had supported him completely. Instead of being 2 to 1 in favor of the President's plan, they were 2 to 1 in opposition to the President's plan.

Based on the research that has been done in this nonideological fashion, we find that the more people know the facts of the Republican proposal on Medicare, the more they support it. So, that, over time, the American people—as they did with President Clinton's plan—are going to move in the direction of supporting the Republican position.

Right now, if you look at the polls, they are virtually identical. If you poll Americans, about 50-50 are saying we need the Medicare proposal for the Republican position. That would bother me a great deal if I did not know that the more people know about the particulars of our plan, the more they support it.

So I urge my fellow Republicans to stand firm with where we are, knowing that this time is on our side, that facts are
Gerry Austin, in the wake of the riots after spots for African-American candidates, many calls. She found out the spot was created by the former New York congresswoman was running for Brooklyn district attorney in the 1980s when, she says, her opponent fired off a noncandidate campaign, such as a referendum, terror campaign. By late September, however, the media consultants, with Mr. Morris hired guns, the president is comfortable with these mercenaries with signs carrying the theme that the GOP with Medicare ads in early September, but were blunted by Deputy Chief of Staff Hamilton. "I would have liked to get caught short on campaign cash next summer. But by late September, however, the media team got the go-ahead.

Aides say that while Mr. Clinton values his hired guns, the president is comfortable with Mr. Ickes controlling the purse strings and taking charge of relations with the Democratic base—unions, liberals and minority voters. The team may prepare one more media hit before January; it is likely to either be a package on the budget battle or about Mr. Clinton cherishing the same values as average Americans.

Some Democrats privately raise concerns about whether this crew is ready for prime time. However, Mr. Morris, for one, is described by many as brilliant, but has his share of bloopers. Last year, he produced an ad for Tennessee GOP gubernatorial candidate Don Sundquist that people still talk about. It showed a TV spot with a car driving in a video game, crashing into barriers with signs carrying the theme that the candidate was against taxes. "It did have a negative effect," conceded Ray Pohlman, the campaign manager. In the next breath, he says Mr. Morris is fabulous at deciphering polling data and crafting a message. And Mr. Sundquist won the election.

The strategizing on the Clinton campaign goes right down to the wire. The president is comfortable with Mr. Morris controlling the purse strings and taking charge of relations with the Democratic base—unions, liberals and minority voters. The team may prepare one more media hit before January; it is likely to either be a package on the budget battle or about Mr. Clinton cherishing the same values as average Americans.

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While we are taking care of those who are better off—the tax credit for children who pay $18,000 per person, with those incomes—the top 1 percent. Mr. President, in this country, are going to get almost $5,000 per person.

Mr. President, what this does to poor people, what it does to people of modest means in my State—this is not a scare tactic. Mr. President—we are going to have 4.700 fewer people on Head Start, school loans are going to be restricted, summer jobs are eliminated by the thousands in my State. There will be 40,000 children in Louisiana whose nutrition is going to be cut because of this program. Mr. President, 60,000 people of modest means in my State are going to have to pay more for housing.

Mr. President, going right down the line—look at Medicare. We will have 17 million low and moderate-income people in this country who will have an average tax increase of $352. The Medicare people who are having their Medicare cut, their average income is $17,750, while we are giving tax cuts to those of greater income.

Now, Mr. President, there is a blizzard of propaganda.

The PRESIDING OFFICER. The 3 minutes yielded to the Senator has expired.

Mr. JOHNSTON. Mr. President, I oppose this program because it is income redistribution from the bottom to the top.

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. ROTH. Mr. President, as chairman of the Finance Committee, I must oppose the Democrats' amendment for one simple reason: It does not preserve the Medicare Program for this generation, and, especially important, not for future generations. That was the conclusion that the Finance Committee came to when it voted down this amendment during our deliberations.

My good friends and distinguished colleagues, Senators MOYNIHAN and ROCKEFELLER, offered a similar amendment during the Finance Committee markup to save $89 billion from the Medicare Program over the next 7 years. Frankly, it did not go far enough then and it does not go far enough now.

The Congressional Budget Office did a preliminary estimate of the Medicare trust fund effects of the Democrats' amendment to save $89 billion from the Medicare Program. Remember, it is the CBO office that the President himself said is the one that should be making these kind of determinations.

Here is what CBO's preliminary estimates showed would happen to the Medicare HI trust fund if only $89 billion was saved over the next 7 years. The Medicare HI trust fund would only be solvent through the year 2004. In other words, it would get us through the next election.

CBO further said that the Medicare HI trust fund would have a negative balance of $8.4 billion in the year 2005. This would mean that Medicare could not pay its bills on time in the year 2005.

Even more alarming under the Democrats' proposal, CBO says that the Medicare trust fund could not even pay a full year's Medicare benefits starting in the year 2001. Mr. President, that is only 6 years from now.

In contrast, CBO says that our proposal meets the Medicare trustees. Remember, those trustees are primarily appointed by the President. It says it will not run out of money for 10 years. It gets tested on a 10-year test of financial adequacy. In other words, Medicare has enough money in the HI trust fund at the end of every year—that is critically important—at the end of every year for the next 10 years to pay the entire next year's Medicare benefit.

Mr. President, the Medicare HI trust fund has a $300 billion balance in the year 2005. The Medicare trust fund balance is increasing—would be increasing instead of decreasing in the next 25 years.

Using CBO's estimate through 2005, we went to the Office of the Actuary to get their preliminary estimate of how long solvency would be extended under our proposal. The Medicare HI trust fund solvency will be extended until about the year 2020 under the proposal. That is our estimate. In consultation with the Office of the Actuary, that is a quarter of a century from today.

What about the savings that would happen under the proposal before when it would only be solvent to 2005.

Mr. President, $89 billion in Medicare savings just is not enough. Even the President earlier this year said that at least $127 billion in Medicare savings are necessary.

Let me just say, Mr. President, a few words about the need for savings to Medicare part B. Most attention has been focused on Medicare part A solvency in the part A trust fund.

But part B spending is a big, big problem. According to Medicare public trustees—again, appointed by President Clinton—the Medicare part B spending shows a rate of cost which is clearly unsustainable. Medicare part B spending was $2 billion in 1970. In 1995 the Congressional Budget Office estimates Medicare part B spending to be about $56 billion. The PRESIDING OFFICER (Mr. Gorton). The time yielded to the Senator from Delaware has expired.

Mr. ABRAHAM. I yield the Senator from Delaware an additional minute of time.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, let me conclude by saying that without savings in this part B program we cannot say that we have effectively tackled the problem of fixing Medicare. Therefore, I oppose the Democrats' amendment because it has already been debated and voted down this amendment in the Finance Committee. It does not go far enough to help the Medicare HI trust fund, and we do not want to do it in small steps that will only cost more and create greater hardship. It appears to do nothing, to be candid, to slow Medicare part B spending, which is a significant problem. For that reason, I must oppose the amendment.

I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I inquire as to how much time is left at this point?

The PRESIDING OFFICER. The Senator from Georgia has 25 minutes. The Senator from West Virginia has 11½ minutes.

Mr. ABRAHAM. At this time I yield 5 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDALE. Mr. President, this whole debate baffles me. I think it really boils down to those who want the status quo and those who want to confront the fiscal dilemma.

The entitlement commission was chaired by the distinguished Senator from Nebraska who is on the floor right now and that sets the predicate for everything that has to be done. I commend the Senator for that work. I wish a lot more was being said about it.

But, in essence, that report says that within 10 years all U.S. revenue and wealth is exhausted by five programs: Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt. And then there is nothing left.

So it is entirely appropriate that the new majority confront these issues. In the discussion, with repeated frequency, the other side tries to link the tax reduction that we are proposing to Medicare. And over and over we hear that somehow, something is being taken away from Medicare to help a tax reduction.

The President, of course, has already admitted that he raised taxes too much in 1993. We are trying to help him fix it, even without the support of his colleagues here on the Senate floor.

But this is not a vacuum in which we are operating. What happens to the $245 billion in tax reductions? First of all, the savings on Medicare by law stay in Medicare. Medicare and extend the solvency which is why we have been given assurances that our Medicare proposal will assure solvency for a quarter century, 25 years. Their suggestion gives us 24 months. Is America looking for a Band-Aid or a solution for these senior citizens?

Let us step aside. Why are we coming forward with a tax reduction? I read from Llewellyn H. Rockwell, of the Ludwig Von Mises Institute in Auburn, AL. He says:

Even as family income has declined since 1970, the Federal Government's tax hike in real terms has increased more than 600 percent. An average family, making $40,000 a year, with two children, is seeing half
Mr. CHAFEE. Mr. President, what I wish to do this afternoon, briefly, is to address the so-called part B premium situation. It seems to me, in all of this political maneuvering around here, the Democratic Party has overlooked the unfairness that is occurring in the part B premium.

What is the part B premium? The part B premium is an insurance premium that those on Medicare take out if they wish. When Medicare was set up, under the part B proposal the Federal Government was going to pay half the cost of the premium, and the individual was going to pay the other half. But over the years that has deteriorated so now, currently, the insured is paying 31.5 percent. Not 50 percent of the premium, but 31.5 percent.

Do we change that? No, we do not change that at all. That remains constant at 31.5. I do not know how anybody could complain about that. You get 100 percent of the premium and you only pay 31.5 percent for it.

We then go on to say, with a minute, this is putting the Federal Government a lot of money. It is costing the Federal Government $42 billion a year to subsidize that part B premium, the other 89 percent. So we say, is it not fair for the richer people to pay more of that premium? So that is what we provide. We provide for individuals with $50,000 of income—this is not some pauper, this is an individual with $50,000 of income—or a couple with combined income of $75,000, right then start paying more of that premium than 31.5 percent. Apparently they do not think that is fair. I think it is eminently fair. Why should some jewelry worker in the city of Providence have his or her income go into the general Treasury and come out to pay some wealthy person's premium under part B of Medicare?

But does that person at $50,000, or $75,000 a couple, have to pay all the premium? The answer is no, they do not. They just start paying more than the 31.5 percent. When do they start paying the full part of the premium? When the individual reaches $100,000 and the couple reaches $150,000.

So, Mr. President, this is a very fair program. By the way, if the person does not want that insurance, they do not have to take it. It is an optional program. If they do not think over on the other side they think it is wonderful that the Federal Government subsidizes these insurance programs.

Jack Kent Cooke, the owner of the Redskins, is having 70 percent of his doctors' bills paid for by some worker, somebody who cleans up the halls or works in a restaurant. I do not think that is fair. I think the program that the Republicans have submitted in connection with Medicare is an eminently fair program, and, Mr. President, I urge its support in this Chamber.

I think they are right in need of this recommital motion whatsoever. The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. CHAFEE addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, what I would like to do this afternoon, briefly, is to address the so-called part B premium situation. It seems to me, in all of this political maneuvering around here, the Democratic Party has overlooked the unfairness that is occurring in the part B premium.

What is the part B premium? The part B premium is an insurance premium that those on Medicare take out if they wish. When Medicare was set up, under the part B proposal the Federal Government was going to pay half the cost of the premium, and the individual was going to pay the other half. But over the years that has deteriorated so now, currently, the insured is paying 31.5 percent. Not 50 percent of the premium, but 31.5 percent.

Do we change that? No, we do not change that at all. That remains constant at 31.5. I do not know how anybody could complain about that. You get 100 percent of the premium and you only pay 31.5 percent for it.

We then go on to say, with a minute, this is putting the Federal Government a lot of money. It is costing the Federal Government $42 billion a year to subsidize that part B premium, the other 89 percent. So we say, is it not fair for the richer people to pay more of that premium? So that is what we provide. We provide for individuals with $50,000 of income—this is not some pauper, this is an individual with $50,000 of income—or a couple with combined income of $75,000, right then start paying more of that premium than 31.5 percent. Apparently they do not think that is fair. I think it is eminently fair. Why should some jewelry worker in the city of Providence have his or her income go into the general Treasury and come out to pay some wealthy person's premium under part B of Medicare?

But does that person at $50,000, or $75,000 a couple, have to pay all the premium? The answer is no, they do not. They just start paying more than the 31.5 percent. When do they start paying the full part of the premium? When the individual reaches $100,000 and the couple reaches $150,000.

So, Mr. President, this is a very fair program. By the way, if the person does not want that insurance, they do not have to take it. It is an optional program. If they do not think over on the other side they think it is wonderful that the Federal Government subsidizes these insurance programs.

Jack Kent Cooke, the owner of the Redskins, is having 70 percent of his doctors' bills paid for by some worker, somebody who cleans up the halls or works in a restaurant. I do not think that is fair. I think the program that the Republicans have submitted in connection with Medicare is an eminently fair program, and, Mr. President, I urge its support in this Chamber.

I think they are right in need of this recommital motion whatsoever. The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

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the total pot that will be made available by the Republicans. You are going to be having people come in at a 36-per-cent increase saying, "Where are the benefits that I am due?" And they are not going to have them.

Mr. President, this is not fair. It is not sensible. And I hope that we will adopt the amendment of the Democrats to have a fair distribution of solving the problem.

Mr. President, the Medicare and Medicaid cuts proposed by the Republicans hurt people and families.

While the number of Medicare recipients continues to increase.

The Republican cuts eliminate jobs, and these Democratic amendments protect jobs.

Republican cuts affect the quality of care for nursing home patients, and these Democratic amendments maintain care—for seniors, for people with disabilities, and for children while still containing costs.

These Democratic amendments scale back tax breaks for the wealthy to help pay for the Medicare part A program unless changes are enacted. According to the trustees, the magnitude of the crisis is around $88 billion. The Republican solution is to make changes impacting both beneficiaries and providers that would save $270 billion—three times the amount necessary to fix the current financial crisis.

It is important that people across America recognize that Medicare is faced with a financial crisis that can be fixed without totally dismantling a program that has provided economic security for millions of retired Americans since its inception. While I fully recognize that there is a financial crisis confronting Medicare, and believe it is probably somewhere beyond $89 billion, but substantially less than the Republican solution, the Gingrich solutions are anything but solutions.

The solutions being put forth once again to take into consideration the changing composition of the over-65 population. For example, do the solutions being proposed really fit the acute and long-term care needs of current and future generations of retired Americans?

With the aged and more post World War II called baby boomers beginning to reach age 65, the number of workers paying taxes will continue to decline, while the number of Medicare recipients continues to increase.

The need for four taxpayers support a Medicare part a beneficiary. However, when the baby boomers retire between 2010 and 2015, the estimated number of taxpayers paying for each Medicare part a beneficiary will have dropped by two.

Thus we will have gone from a 4-to-1 ratio to a 2-to-1 ratio in just a few years.

By 2008, our overall population will increase by 2 percent, but our retired population will increase by 30 percent. The Medicare changes, however, cause one additional problem—a reduction in health care employment and other jobs that indirectly benefit from the health care sector.

Let us look at the impact on my State. Jim Howell of the Howell Group recently issued a study that shows that the proposed combined cuts in Medicare and Medicaid of $452 billion will conservatively result in a $13 billion loss to the State over 7 years. Massachusetts alone will lose $71,000—health sector jobs and the indirect employment impact could result in $165,000 lost jobs.

The hardest hit towns would be Boston, Brockton, Cambridge, Fall River, Farmingham, New Bedford, Salem, Springfield, and Worcester.

The proposed $1 billion cut in funds for graduate medical education will have a devastating impact on institutions and it will hurt Massachusetts' knowledge-based economy by disrupting the network of medical schools, research institutions, health care providers, and biotech firms.

The proposed Medicare cuts would result in aggregate personal income losses in the State of $2.1 billion.

The health of seniors and children, and the loss of jobs at a time when working families are struggling to make ends meet is just too high a price to pay.

The proposed cuts in Medicaid will eliminate programs for poor children disabled persons, and seniors.

Under the Republican plan, Massachusetts would lose approximately $4.6 billion.

With regard to children, one out of every three low-income who is currently receiving health insurance coverage from Medicaid is in jeopardy of losing their coverage.

For elderly persons in Massachusetts, the impact is more severe. Currently, 75 percent of all patients in Massachusetts nursing homes are dependent upon Medicaid to help pay for the costs of nursing home care.

Under the Republican plan, more than 25,000 seniors would lose their Medicaid eligibility by 2002.

I believe the Republican response to the Medicare crisis can best be summed up as follows: it does not focus on the future of the overall program; it does not address the growing long-term care crisis facing Americans of all ages but particularly America's seniors.

It does not address or take into consideration the impact such dramatic cuts will have on employment in the health care sector, and on those communities who have become dependent upon this sector as a means of fighting or deterring rising unemployment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, at this time I yield to the Senator from Virginia.

How much time remains?

The PRESIDING OFFICER. The Senator from Virginia has 15 minutes plus remaining, and the Senator from West Virginia has almost 7 minutes.

The Senator from Tennessee?

Mr. FRIST. Mr. President, I rise to speak against the motion. Why? Because the plan we have on the table addresses three central issues.

First, it prevents bankruptcy of not just one, but the entire part A trust fund. If the plan on the table passes, it will not prevent the bankruptcy of the entire program.

Second, our plan, our underlying bill, increases spending, increases spending from $600 billion to nearly $2,000 billion. That is an increase in spending.

And, third, our program improves Medicare as we know it today.

As has been pointed out by my colleagues before, we have a program that is a good program. I say that as a physician who has taken care of thousands of Medicare patients. It is a good program. But it is an antiquated, out-of-date program that locks seniors' hands, that deprives them of choice. We want to give them choice. We want to give them the opportunities that you have. That I have, that most people, the majority of people have who are less than 65 years of age today.

The Democratic motion ignores the fundamental problem. The problem is twofold. It really has not been discussed very much over the last hour and a half.

The first part of the problem is that it is an outdated program. It does not meet the needs of our senior citizens today, or individuals with disabilities, or why would 70 percent of them have to go outside and buy additional coverage for Medicare? Why is it that Medicare today does not cover prescription drugs?

As a heart surgeon, as a lung surgeon, as someone who again, who was taken care of by many Medicare patients, I can tell you our senior citizens need help with their prescription drugs. Today, we deny choice. We deny the right to choose to our senior citizens. Is that fair? Does the other side not want to offer the same choice that we have to our seniors?

That is the first part of the problem. The second part, what is most exciting about our solution is that is the underlying bill—is that we improve the program.

Second, it is the program that has unsustainable growth. The growth has been about 10 percent a year. It is of the entire program. We talk a lot about the trust fund, part A. I think people

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broadly need to know that part A is one part of the problem. Part A is the hospital trust fund. Part B is the doctors. This particular proposal by the committee today addresses the part A part of the trust fund without addressing the overall connection, without addressing the overall program.

It is real. In spite of the fact that the trustee report says very specifically—and, again, this is the trustee report, six trustees, trustees of Medicare, three of whom are in the Clinton Cabinet and they say very clearly. They say, "We strongly recommend that the crisis"—we cannot just put another Band-Aid on this—"presented by the financial condition of the Medicare trust funds"—fund not just part A. Funds, the overall program—we be urgently addressed on a comprehensive basis.

We cannot just throw $89 billion at part A, one part of these trust funds, and expect to solve the problem long term.

We address the program in a comprehensive way. We address part A, the hospitals; part B, physicians. The complex interaction that comes between the two. As a physician who goes to a hospital and works in a clinic. I can tell you it is a complex interaction and you cannot address just part A. If you squeeze part A, part B will balloon out. The Democratic motion addresses only part A. And, again, if you look back to the trustee report, the trustees say it is not a problem just with part A. It is both trust funds. "Both the Hospital Insurance Trust Fund"—that is part A—and the Supplemental Medical Insurance Trust Fund show alarming financial results. The part A "trust fund continues to be severely out of financial balance. **The SMI Trust Fund**—part B, not addressed by this proposed amendment today—"shows a rate of growth of costs which is clearly unsustainable." Clearly unsustainable.

My point is, we have a program here you cannot just address one part without addressing the overall program.

I go back to a chart that was shown earlier by my colleague from New Hampshire that shows that we are going bankrupt in 7 years. In 7 short years there will be no Medicare part A trust fund.

Again, the distinguished chairman of the Finance Committee just read the report from the CBO that says maybe the $89 billion which is in this proposal by the way will amount to that trust fund, just that part A, for 2 years maybe 2 years. It does not address the underlying problem.

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The second thing I would like to say is in response to my friend from Georgia and what he said about providing a solution. If this motion to comply is adopted—and I hope it will be—"I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCHEFELLER. Mr. President, I yield 3 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I will be necessarily brief. Mr. President.

Mr. President, I find it fascinating to hear now that a Republican colleague stand up and say the Medicare system is bad. They say things like it is antiquated and outdated, but it serves the senior citizens well. How in the heck can that be done? How can it be anti-quated, outdated, and serve the senior citizens well?

The second thing I would like to say is in response to my friend from Georgia and what he said about providing a solution. If this motion to comply is adopted—and I hope it will be— Ink 10% of all health care spending.

The same, unfortunately, is true for Medicare. The General Accounting Office estimates that fraud in the Medicare Program will total up to $18 billion this year alone. Medicaid fraud is another $16 billion.

Now, the vast majority of doctors and other health care providers are honest professionals. But, a few dishonest manipulators are ripping off the taxpayers and threatening the integrity of Medicare and Medicaid. A few cynical criminals are preying on those who need health care the most.

Going after these crooks and thieves who are defrauding the system must be our top priority. If this motion to commit is adopted—and I hope it will be—the first place we should try to find savings is in Medicare fraud.

In the meantime, Mr. President, I will be joining Senator HARKIN and Senator GRAHAM in offering an amendment specifically on Medicare fraud and I hope my colleagues will support that as well.

According to one estimate, for every dollar we spend fighting Medicare fraud, we save $10. One example of this: **CONGRESSIONAL RECORD — SENATE** October 25, 1995

So what have we done is taken this curve and shifted it 2 years, put a Band-Aid on it without addressing the underlying problem again, short-term solutions. That seems to be so much the approach here.

We are addressing it long-term.

Let me see the next chart. Again, this is a chart that shows next year, if we do nothing, we will begin deficit spending in the year 1996. Again, what we do with the motion in the Chamber now is to shift this curve out, not change the slope of the curve at all but shift the curve out 2 years. For some commission to decide in the future.

In summary, the problem today is an antiquated, outdated system which serves senior citizens well but not as well as the private system serves people under 65 years of age.

We address that problem. The proposal in the Chamber currently, which I oppose, by the Democrats does not address the overall antiquation of the system.

Second, the Democratic proposal in the Chamber ignores this complex relationship between A and B, touches just upon A.

And third, the Democratic proposal, as Senator ROTH pointed out, the only thing it does is move these problems out another 2 years beyond the next election.

Our solution is a long-term solution.

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Mr. BIDEN. I yield my time. Fraud is a problem. This bill does not address it.

Mr. ROCKEFELLER addressed the Chair. The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 1½ minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY, the President, I have been in the Chamber for 5 hours, and what we have not heard from the other side is the justification for a $245 billion tax cut for the wealthiest individuals, the wealthiest corporations and an increase in the taxes on the working families.

The challenge of the Rockefeller amendment is to join with us, Republicans and Democrats alike, put aside the tax breaks for the wealthy, put aside the tax breaks for the large corporations, put aside the tax increase on the working families, join with us in taking the recommendations of the trustees report for $89 billion, work with us for a program that will mean no increase in premiums, no increase in copays, no increase in deductibles, not raising the age eligibility issue and assure the seniors, the senior citizens of a meaningful choice.

We can do that. We should do it. That is the challenge. That effectively is the challenge of the Rockefeller amendment, and I hope it will be accepted.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, as I said at the beginning of this debate, all of this comes out of the Contract With America. All of the $270 billion cut in Medicare comes out of the desire to find the tax breaks for wealthy families and corporations.

When you are looking for that kind of money in the budget that we now have, you cannot look to the military. You cannot look to education. You have to look to the places where the money is. That is in Medicare, that is in Medicaid, to some degree in the earned income tax credit and, of course, to some degree in welfare.

So the Republicans have pounced upon Medicare, and they have decided not to solve the Medicare problem but to bury Medicare with the idea of making absolutely certain that they could get the most amount of money from Medicare for the purposes of their tax breaks for the wealthy that they possibly could.

This was about nothing else than that. If it is simply a matter of trying to solve the Medicare problem, then the Democratic solution in this amendment, which I hope people will support, is the answer: $89 billion will do it. If it is tax breaks for the wealthy, and that is what you are after, then you will want to vote against this amendment because that is not what we on this side are trying to do.

I hope my colleagues will understand the genius and the nature of what this whole argument has been about from the very beginning.

This is a historic vote. It is a defining moment. It is an extremely dangerous moment for the seniors of our country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry.

What is the time situation?

The PRESIDING OFFICER. The Senator from New Mexico has just under 8 minutes remaining. The Senator from West Virginia has 28 seconds remaining.

Mr. DOMENICI. Mr. President, I yield myself 7 minutes of that.

Mr. President, there is no question this is a defining moment. It is a defining moment because today and tomorrow we are going to decide whether we want to have a Medicare program for the senior citizens of the United States or whether we want, under this amendment, to protect one little part of it for a couple of years.

Which do the seniors really want? Do they want a Democratic proposal which essentially ignores more than half of the Medicare program, does not even talk about it? It is in big trouble. And then it says we are only going to reform the hospital program sufficiently to keep that fund solvent for how many years, I ask Dr. Frist, Mr. Frist. Two additional years.

Mr. DOMENICI. Two additional years, two additional years.

Now, for all the talk on that side of the aisle, the truth of the matter is, they do not really care about senior citizens. They would rather win this fight than protect the senior citizens. They are crisscrossing America and using the airwaves to frighten them to death. And what is their proposal? Their proposal is to extend the trust fund 5 years.

Now, let me suggest, nobody should believe with that dose of reality that this is anything more than a political exercise. It has little or nothing to do with American senior citizens. It has to do with trying to win at the ballot box. And let me say to the seniors, once we have resolved this issue, you will find the reality and you will not be duped by the debates of today. Rather, you will be convinced by the reality of tomorrow, which means we are going to have a Medicare program which is solvent, that we can afford, and that our young people who are helping pay for it can be proud of.

Now, there is no question that once again it is proven that the other side of the aisle, the Democrats, would rather tax and spend to reduce expenditures and cut the American people's

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not to stay together and raise your children. Another enticement not to get married. They raised the marital deduction. What the Democrats did was to add a piece to this tax bill goes to correct part A and part B are in serious, serious trouble. And we have explained to everyone, we do not have to change things a lot to make this a far better program for the future and give seniors a choice rather than have them rattled by the bureaucratic and paperwork that frustrates them more than the doctors that serve them.

If you have ever heard a senior complaint, they say, ‘Why do we have to fill out all these papers? We don’t even understand them. We are getting defrauded. We can never find out what it does. It changes once we defeat this amendment today and move on with the Republican agenda.’

Let me make one last remark. We used to hear that it was the House plan that was going to give all these tax cuts to the rich. And we used to come down here and say, ‘What plan are you talking about?’ They would say, ‘The House plan.’ They cannot talk about it anymore because right here before us is the amendment the Senate plan does not cut taxes for the rich as described on the floor of the Senate by the distinguished Democratic Senators. Let me say, once and for all, 90 percent of the tax cut in this bill—not 80 percent, not 50 percent—90 percent will go to Americans with $100,000 in income or less. And that is not DOMENICI, that is the Joint Tax Committee—90 percent.

Now, they can get up and hypothesetically say we are giving the rich back tax cuts. Ninety percent go to $100,000 earners and less. Are those the rich people of America or are those the people with families that need some help in raising their children? That is what this Senate bill is about. We have decided that our families raising children ought to get a better economic break because years ago we used to give them a break. We took it away.

In fact, I would close by saying a piece of this tax bill goes to correct what the Democrats did last time. They raised the marital deduction. They made it cheaper to be unmarried than to be married. And that another enticement not to get married, not to stay together and raise your kids because you get a break if you do not.

We have fixed that in this bill. Is it helping rich people of America or is it helping thousands of Americans that would like the benefit of not being treated inferior because they happen to file jointly as husband and wife? It seems to me we are on the right side of this debate. And we are going to hear is political rhetoric, half-truths. And by the time we are finished, and this program is implemented, I suggest it will be those prophets of gloom who predict what is unpalatable—because it will not happen—they will be the ones to suffer, not the Senators on this side who are going to stand up and be counted today.

I yield the floor.

Mr. DASCHLE addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I will use leader time to accommodate my remarks.

Mr. President. I was told that the previous speaker just has indicated that it is his view that Democrats do not care about senior citizens. If that is what he said, I am very disappointed. He knows better than that. In fact, the issues in this debate are about finding the best approach for senior citizens, and finding a way to ensure that the commitment we made three decades ago will remain for as many decades as this country exists. These are the issues.

I think it is all too convenient—all too convenient—that at the very time our Republican colleagues propose a $245 billion tax cut, it just so happens they also propose to cut Medicare $270 billion.

I know there are some who say it is sheer coincidence. I know there are some who say we could come up with the tax cut or the tax break revenue in other ways. But I also know that there are not many pools out there that are big enough to accommodate a tax cut, a tax break of that size. This is the biggest rollback in health benefits to senior citizens in American history. This is the biggest financial transfer from low- and middle-income families to the upper-income families in American history. So no one should be misled. This will be the most important vote we will cast during the budget debate.

So, Mr. President it is with a great deal of concern, grave concern, that we offer this amendment this afternoon. There is no question about what this proposal in the reconciliation package means for senior citizens. I do not think there is any doubt in anyone's mind, the actuarial report will show that this proposal will cause senior couples to pay more than $2,800 more in Medicare premiums and deductibles.

We know it will double premiums. We know it will double deductibles. We know it will increase the age of Medicare eligibility from 65 to 67. We know that it eliminates protections for seniors by providing doctors and managed care plans with opportunities to charge seniors rates more than a reasonable rate. We know all of that. There is no doubt about it. No dispute.

No one should be misled. This proposal is going to hurt. And if it were in some way designed to really reform Medicare, it would be in bankruptcy, we could understand it. If we were in a position where it was this plan or bankruptcy, I could say that we might have to suck it in and do it.

But we know with certainty that is not the case. The actuaries and the trustees have told us that we need $89 billion to keep the trust fund solvent through the year 2000. Not a penny more.

In an analysis of the House plan, it was $270 billion, the actuaries also indicated a solvency date in 2006. Where does the extra money go?

Again, no one should be misled. This is a question about where we go for revenue to pay for the tax cuts that we have been debating now for several months.

Let me just say, Mr. President, the damage done under this plan reaches beyond seniors. The problem with the health care provisions in the reconciliation package is that 9 million people in rural America could find their clinics closed when they need health care in an emergency. Under these proposals, we know the hurt will be widespread.

We know that in South Dakota 10 to 15 rural hospitals would likely close.

We know that these proposals will undermine health care provided in rural America.

We know that huge cuts to teaching hospitals will decimate research and training programs.

We know that up to $100 billion is going to be taken out of the trust fund with insurance in the private sector, according to the Lewin-VHI study.

We know all of these things, and more. So this is not just an issue for senior citizens. This is an issue affecting rural America, and every single person with private insurance in the country.

And so, Mr. President. I just hope before we cast this vote that no one misunderstands the commitment we made three decades ago to protect the trust fund by ensuring its solvency, to recognize the importance of this issue to senior citizens and their families, to say no to tax breaks in areas where they are not necessary, and to say no to tax breaks to the wealthy. Then the choice is very clear. Democrats have presented an alternative that makes sense, that ensures the solvency, that assures, in the long term, senior citizens are going to continue to get the best care that we could possibly provide and that protects a commitment that is now more than 30 years old. We owe them that. We ought to adopt this amendment.

I yield the floor.
Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico. Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time remains and who has time? The PRESIDING OFFICER. Fifty-seven seconds to the Senator from New Mexico; 28 seconds to the Senator from West Virginia. Mr. DOMENICI. Does the Senator from West Virginia want to save his 28 seconds? Mr. ROCKEFELLER. I yield back my time.

Mr. DOMENICI. Mr. President, I just want to finish wrapping up. There is a suggestion when we talk about how much is being reformed, how many dollars are going to be saved, nobody talks about how much we are going to spend. The senior citizens ought to know we are going to spend $1.65 trillion. In the seventh year, we will spend $104 billion more than in the year it starts. It will go up to $104 billion more, a total of $1.65 trillion, which we cannot hardly understand.

With that, I yield back any time I might have and yield the floor. The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. BROWN addressed the Chair. The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 248 TO THE INSTRUCTIONS OF THE MOTION TO COMMIT

Mr. BROWN, Mr. President, I rise to offer an amendment and ask for its immediate consideration. The PRESIDING OFFICER. The clerk will report. An assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 249 to the instructions to the motion to commit S. 15631, the Finance Committee.

Strike all after "Finance" and insert the following: "With instructions to report the bill back to the Senate with the findings of the Trustees of the Federal Insurance Trust Fund that, in order to save Medicare and to keep the Hospital Insurance Trust Fund solvent for future generations, Congress must address both the long-term and short-term shortfalls in the Medicare program."

Mr. BROWN addressed the Chair. The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN, Mr. President, the underlying amendment that is before the body suggests that this measure be returned to the committee and deal only with the $89 billion of money that would need to keep the fund from going bankrupt or being insolvent through the year 2006.

That figure is based on their intermediate projections. As one am familiar, as I think most Members are familiar with our process. We do a conservative projection. We do an optimistic projection. We do an intermediate projection. I might remind Members that in Social Security projections, for most of the years we have had those Social Security projections, the optimistic projection has not proved to be correct. As a matter of fact, the intermediate projection has not proved to be correct. Through most of the years we have had those Social Security projections, as a matter of fact, the conservative one proved to be far too optimistic.

None of us have a crystal ball, but I think it would be foolish in the first order for us to assume that the $89 billion is going to be enough to keep this fund solvent through the year 2006. If history is to be the judge in looking at the projections we have had, it is quite clear that we may well see this fund go insolvent if the underlying amendment is adopted.

I think men and women of honesty and fortitude who have discussed this issue today can honestly disagree about the projections. It could be that the intermediate projection is just fine. It could be that the conservative projection is far too optimistic, as history as has shown. But one thing I do know and one thing is incontrovertible. If you read the report of the trustees—and let me remind Members, the trustees are appointed by the President of the United States and all but one of them are Democrats; that is, of the seven trustees, all seven have been appointed by the President and all but one of them are Democrats—they say in their report that after the 10 years that is contemplated in the underlying amendment that this fund goes belly up, even if you do the $89 billion with the intermediate projections.

They say, in the long run, it does not meet the 7-year solvency test and they say, moreover, it becomes much, much more difficult to meet it, as you have the baby boomers coming in after this 2006 period.

So the suggestion in the underlying amendment is that you should deal only with the current crisis and close your eyes to the real insolvency that is coming in Medicare. I believe Americans deserve better. Frankly, Mr. President, I think Americans expect better. If you go out to the working men and women of this country and you tell them that we are going to come up with a program that will let you pay taxes for another 10 years, but at the end of 10 years, according to our intermediate projections, there will not be anything left for you to collect on, I think they would be outraged.

Frankly, I think they deserve to be outraged. The proposal that is before the body is one that forces you to pay for the next 10 years to make working people pay another 10 years and then have nothing for them when we get to the end of 2006. That is not HANK BROWN projecting with regard to the Medicare Trust Fund.

That is not a group of Republicans projecting. That is a report by Presidential appointees themselves, six of the seven who are Democrats, all appointed by the President of the United States. That is not a Republican projection. What we want, one, is a Democratic projection.

I think we need to do better than that. I think we need to say to the working men and women of this country, "We're not only going to take your money for the next 10 years in order to fix the current law does, but we're going to make sure there is something there for you when we finish." That is what this amendment does. This amendment makes it quite clear that what we are to look at is not just the short term, but the long term as well. I believe that is a proper focus. I believe it meets our commitment.

We have a choice with this amendment. We can go with the short-term outlook that leaves the fund insolvent after 10 years, or we can go with the long-term outlook that requires that this end up being solvent in the long run as well.

Mr. President, I suppose one of the saddest things to see, with respect to Social Security programs which are in place for working men and women, where they rely on the Federal Government themselves, is the Government being in a position where we cannot meet our obligations. This is by a Federal Government that, through ERISA, has come forward and said, with regard to private pension plans, that you are required to make them financially sound, and we put in place very tough rules on the private sector that forces them to fund them, with extreme penalties on anyone who would not.

I do not think anyone would fail to be uncomfortable with the proposition that says in the private sector we are going to mandate these to be actually financially sound, but in the public sector, trust us. Why would people not want to trust us? For exactly the reason for the underlying amendment. The amendment is that we will fix it in the short term and leave a problem for the long term. That is the difference in the private sector. What we have done is impose on them burdens to be sound, to fund their obligations, and to face up to them. And in the public sector what we have done with the underlying amendment is say we are only going to fix it up and get by, and at the end of 10 years, after taking your money, there will not be a balance left there to help you meet your obligations.

I believe we have to do better. We have had a lot of people quoted here. Let me quote the President's nominees on that board. These were the conclusions of the board of trustees:

Under the trustees' intermediate assumptions—

My own view is that the assumptions are far too optimistic.

Under the trustees' intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years.
As a result, the HI trust fund does not meet the most stringent test of financial adequacy. Under the high-cost alternative, if the fund is projected to be exhausted in the year 2001, approximately 6 years from implementation of the low-cost alternative, the conservative one, the trust fund is projected to be exhausted in the year 2006. Currently, about four covered workers support each HI enrollee. This will begin to decline very rapidly in the next century. By the middle of that century, only about two covered workers will support each enrollee.

Let me pause here, Mr. President. I want to reiterate that because it underlines the problem we have and the reason we should address it. "By the middle of the next century"—quoting the Democratic majority on the board—"only about two covered workers will support each enrollee."

Mr. President, that is our problem and that is what needs to be addressed long-term.

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

Mr. BROWN. Yes.

Mr. GREGG. I think the Senator has made a critical point, which was not made by the Senator or by anybody on our side, but made by the trustees of the hospital insurance trust fund, three of whom are members of this administration—Secretary Rubin, Secretary Shalala, and Secretary Reich—which is that the trust fund is headed toward insolvency, and that in order to correct that insolvency, there would have to be a significant adjustment in the trust fund, either in the way of revenue or benefit costs.

I would like to ask the Senator from Colorado if he noted also on page 27 that they put a number on what that adjustment would have to be. Their number, as I read it, is $55 percentage adjustment in payroll rates for employees and employers, which translates into $387 billion of adjustment which must be made by the year 2008. This is by the trustees speaking, saying an adjustment must occur over a 7-year period in order to get actuarial solvency under their intermediate assumptions. That adjustment is necessary for a 25-year period, which they consider to be a short time. They would rather it be for 75 years. That means when the other side comes forward with a proposal that only does $89 billion, they are missing the mark, according to their own trustees, by some billions of dollars. This is not a short-term fix.

Mr. BROWN. Let me say to the distinguished Senator that I believe his analysis is correct. It points out the enormous problem we have here. We will have an absolutely catastrophic impact if we do not address it now. The longer we wait, the more difficult the problem gets. I am reminded by staff that we need to make it clear in this amendment that we are exempting part B of the Medicare law, as shown by the projections in this report. The Hospital Insurance program costs are expected to far exceed revenues over the 75-year long-range period under any reasonable set of assumptions.

Under any reasonable set of assumptions, Mr. President. As a result, the hospital insurance program is severely out of financial balance, and the trustees believe the Congress must take timely action to establish long-term financial stability for the program.

The President's own nominees are admonishing Congress to take timely action to establish long-term financial stability. I have listened on this floor to Members stand up and say, "Heavens, we do not need to take long-term timely action. No, that is not what the trustees said. Mr. President, it is in their report, it is in black and white. It is on page 4.

The cost to the hospital insurance program is projected to increase over 1.6 percent of gross domestic product in calendar year 1994, to 4.4 percent of GDP in the year 2005. This rapid growth is attributable—that is clearly attributable—to anticipated increases in hospital admissions and in the complexity of the services provided together with expected changes in demographics.

With the magnitude of the projected actuarial deficit in the hospital insurance program and the high probability that the hospital insurance trust fund will be exhausted in less than 10 years, the trustees urge the Congress to take additional actions designed to control hospital insurance program costs and to address the projected financial imbalance in both the short range and the long range through specific program legislation. As part of a broad-based health care reform, the trustees believe that prompt, effective, and decisive action is necessary.

Mr. President, how much more clearly can it be said? The President's own nominees, six of the seven of them Democrats, say it as clearly as is humanly possible. Is it any longer time. No, that is not what the trustees believe. It is a prompt, effective, and decisive action.

What is before the Senate is a suggestion we take a short-term view, that we patch it up for 10 years and leave people who paid in all their life without any coverage. That is not responsible. It does not conform with the guidelines set forth by the President's own nominees.

They go on:

To facilitate this effort, the trustees further recommend legislation to establish an independent council for health care. This action would help provide critical information that will be needed by the administration and Congress to demonstrate the future of the hospital insurance program.

Let me pause and simply mention this: The Republican leader himself asked the President—he was joined by the Speaker of the House—asked the President to help set up a commission this through, as it was done in Social Security, to come up with an answer in this area that was bipartisan. That would lend integrity to the commitments we have made to the men and women of this country who
have paid into this program—some of them for almost all of their lives.

The President was unwilling to co-operate in that venture in a timely manner to get an alternative before Congress.

Now, Mr. President, the reality is this: This should be a bipartisan effort. I do not believe that my Democratic colleagues want this fund to go bankrupt in the long run. The American public is wise enough to know that many of the things each party says about the other are somewhat taken with the heat of the moment and not necessarily meant seriously.

I do not believe Democrats, any more than Republicans, want this program to go belly up. I believe the vast majority of Americans, whether Democrats or Republicans, would be shocked to know that this program will be out of funds in 10 years and we would not have taken care of it.

I do not think anybody—Democrat, Republican, dependent—feels that is responsible. I honestly believe the people of this country expect us to come up with the long-term answer. That is why this amendment is offered. It talks about looking at the long run, not just the short run.

Mr. President, that is the essence of what this debate is all about. Members will have an option. They can vote "no" on this amendment and opt for a short-term solvency only; or they can vote "yes" on this and help ensure that a long-term solution is in sight.

Mr. President, let me add a word of warning. The amounts of money in this bill are estimated to be adequate with other changes that would be made in the long run to help put us on sound footing and make it actuarily sound.

Mr. President, I must say, my own belief is that this does not go far enough. My own belief is that we should not be looking at the immediate solvency projection. My own belief is we should do much more than what is suggested in this bill.

While we accept the immediate funds, and some would say what we need to do is have an $89 billion fix and others would say a fix in excess of $270 billion, my own estimate is that the problem is much greater than that: that the projections are far too optimistic.

If we are to be responsible, we should not only do what is in this bill, we should set about seriously in an effort to make sure that we have solved the problem for all time, that we have adopted the actuarial soundness principles that we impose on the private sector. We ought to be willing to stand up and say as the Congress does—begin to live by the same laws that we impose on others.

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

The PRESIDING OFFICER (Mr. Thompson). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might consume.
vote on something else, a long-term study on it. We are interested in long-term studies. We are interested in intermediate studies. What we do not want to face is your $245 billion tax cut that is coming out of the Medicare premiums, deductibles and copays for the seniors of the country—you do not, and now I have to let you have a vote on it.

Why? What is it? Why have the Republicans not spoken about that? Why did you not at least say, "OK, we have addressed the short term and medium term of the Medicare. Now we think it is right to get a tax cut out of the wealthiest individuals and we are proud to defend that position." I have not heard that. I have not heard that speech. I do not think we are going to hear it because it is indefensible, when you are looking at what they are attempting to do, and that is to undermine the Medicare system which has been a compact with the seniors of this country since 1965.

And, then, when I look at the conduct of our colleagues and friends I can kind of understand why they do not want to vote on it. I was here in 1964 when the Medicare amendment was defeated. I was here 8 months later, in 1965, when it passed. I was here when 19 Members who voted "no" in the fall of 1964 voted "yes" in April of 1965. Do you know what had intervened? An election. An election intervened. Our colleagues who were opposed to it went back home and gave the same kinds of comments that were given, evidently, by the majority leader last night, according to TOM HARKIN, saying the majority leader was proud to oppose Medicare when it first came up and is still proud to oppose it. Those were the speeches then.

And then they got a little awakening because the seniors knew what was out there. They knew that some people were going to get what was out there. Not just the elderly, but their sons and daughters had a fundamental recognition that, when people grow older in our society, they have a right to get the health care needs and, by and large, their incomes go down. That is what happens, not only industrial societies, but in other societies around the world. And, therefore, if we are going to be a compassionate Nation and care about our seniors—the men and women who fought in the wars, brought the country out of the Depression, sacrificed for their children, many of whom are sitting in the U.S. Senate—that there was going to be a compact. They were going to pay in and then they were going to be able to receive out.

The Democratic alternative is not providing the agencies for the fundamental integrity of the Social Security system for 10 years. That has been testified to by the trustees themselves. But what we have not done is included the healthy individuals.

You ought to be ashamed of yourself. I am not surprised that you do not want to vote on this turkey. I can understand that. Refuse? I would certainly hope the leader would say, if we are not going to get the vote on this one, we are going to keep coming back and coming back, every single time that we are in the 10 hours left, and we are going to make every attempt to get a vote on it and let our Republican friends pull every kind of trick in the book on it and let us take that issue across this country and let you defend it. You cannot defend it. You cannot defend it.

You come up here and say, 'Let's get back to that trustees' report now. Let's see whether or not we are going to happen in 10, 15, 20 years down the road.' It is wonderful to hear all those voices now. We were attempting to deal with the medium and long-term interests of this health care system in our country a year or so ago. It is wonderful suddenly to find they are all interested in this now, really interested in long-term care.

Where are the initiatives in home care? Where is a single proposal from someone on the other side of the aisle on preserving the long-term? That is a No. 1 problem for our seniors. Where is it? If you provide prescription drug assistance for our seniors you will probably do as much or more in terms of reducing long-term costs, because seniors will be able to stay home instead of going to the hospitals in order to get their prescription drugs. And that is going to be true in a wide variety of different areas. Sure we need some advice and, advice on that.

What are we doing on home care, so we can give alternatives to our seniors whether they want to go into a nursing home or remain home and get some help and assistance? Where is the Senators' proposal on that? Where are these proposals on it, to demonstrate that suddenly we are interested in the long-term interests of our elderly people? Where are our seniors kept out of high-cost facilities? Where are your proposals on that? Where are these proposals, that, suddenly we really care about these long-term interests?

They are not there. They are not there because at the core of it, the program on Medicare has not been a program that you supported over its history, and the record shows it. Suddenly, to find out that you care about this matter, in the House of Representatives, they used $80 billion of part A for their tax program, and then a month later said, "Oh, my goodness, there is some difficulty in the insurance fund." And some said,

"Don't you think we ought to go back and restore the $80 billion?"

"Oh, no. we are going to need that for the tax cut, a tax cut which is even greater in the House of Representatives."

The reason we are debating this is they had no opportunity to do it in the House of Representatives—none, closed down. Here we have for 1 1/2 years, and we are saying we were going to at least have a chance to get some kind of result, at least get a chance so we can speak on these issues, to try to work out, in the time that is available, a series of amendments which would be defining in terms of what this debate is all about.

And, we are even denied that opportunity, evidently. We are denied that opportunity on the first amendment out; denied the chance to have a roll-call vote on this issue.

So, Mr. President, I would have suggested to the minority leader and to our friends, Senator ROCKEFELLER, Senator EXON, that if they have that amendment and just use that as an add-on, as an add-on to this amendment, to have the language included. I had it here a moment ago. It is not the wording. Words can be worked out, that you send it back the way we suggested that it be sent back with a report for the $89 billion, and then we also include. If you want, recommendation in terms of meeting long-term care.

I do not understand why the Senator is so concerned about it. Why that route would not be acceptable. But, oh, no. you cannot have it that way. We have got that concern about long-term costs, that concerned about medium and long term. But the Senator is hoping the whole thing will go down, that all of it will go down.

Do not fool us. We know what is going on around here. I do not know if the American people do. I hope that they have been watching—at least today—this debate and discussion and try to find out who is attempting to defend the Medicare system, who believes in it, who, by history and tradition, is a party of defending it and supporting it. They will know because they sure will not know it on the first proposition in defense of the majority leader legislation that is before us.

So, Mr. President, everyone ought to have a very clear idea. I am sure the seniors do. There may be those around here who think they do not just because they are challenged with various physical illnesses and have difficulty sometimes in being able to hear all of the different words or read because their sight is facing difficulty, or unable to get around. They know when they are being fooled or when there is an attempt to be made a fool of. They can look through.

If they take the time to read this debate over the time here today, they will know who is on their side. It is not those who have supported this amendment, but it is those who have said, take back the giveaways. take back those tax breaks to the wealthy individuals and corporations, take back the restriction for an eligibility increase, take back those additional taxes on working families. And let us get something out here that will assure our seniors that there will not be inclusions in the copays and deductibles, and that they will have the choice of their doctors.

We have asked to try to work out together so we can have something
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that will deal with the economic challenges, but, most importantly, assure that our senior citizens are going to have their contract maintained with the American people and with the Congress.

Mr. President, I see my friend from Minnesota. I am glad to divide up the time.

How much time is on each side?

The PRESIDING OFFICER. The Senator's side has 42 minutes and 45 seconds, and the majority has 39 minutes and 34 seconds.

Mr. WELLSTONE. Mr. President, I would be pleased to alternate, if my colleagues want to do that.

Mr. COVERDELL. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. BROWN. Mr. President, we have taken more time than the other side. I will try to be brief so the distinguished Senator from Minnesota can go ahead.

I simply want to respond to the discussion both regarding taxes.

My amendment does not deal with the tax portion. Mr. President, I am firmly committed to making sure the money in Medicare stays in Medicare, that none of it gets used for any other purposes. Frankly, that is what is in the bill.

Let me suggest this. Sometimes people organize demonstrations and they make the signs in advance, and it turns out the signs do not have anything to do with what the reality is. That is what has happened here. They made up their signs about tax cuts for millionaires, and it turned out they no longer apply. What they have done is used the signs anyway.

Mr. President, the biggest portion of this bill deals with the child tax credit, and it makes clear that higher income people do not get it. They not only do not get it, if anybody else gets, they do not get anything from the child tax credit. So the discussion about how you are somehow helping the millionaires out is quite misplaced, at least in this Member's view. What they have done basically is made up their signs in advance and have not been able to adjust them.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota. Who yields time?

Mr. KENNEDY. I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I really welcome this debate, and in the spirit of debate, colleagues. I say to my colleague from Colorado that the problem with the child credit proposal is that it is not refundable and that if you are a family with an income under $29,000 a year, you are not going to receive it. It makes no sense whatsoever.

Where is the standard of fairness? In my State of Minnesota, we are talking about a significant percentage of the population, families with incomes under $29,000 a year. If it is not a re-

fundable credit, it does not do any good at all for that family.

Mr. President, I just want to respond to a colleague on the other side of the aisle who made earlier. And in the main, what I would like to speak to is this argument that somehow part of this debate is a scare tactic or this is an effort to terrorize senior citizens.

Mr. President, I think, as a matter of fact, that is a bit insulting to senior citizens. It is a bit insulting to citizens in our country. People have their own wisdom.

I was in a debate the other day with several of my colleagues at U.S. News and World Report. I said, forget of all this discussion about scare tactics. I wish we were talking about scare tactics so I would not use it. People have their own experience. People can figure this out for themselves.

And, one more time, we have an amendment here that now is in the second degree. Why are my colleagues afraid to have an up-or-down vote on this? We had the debate. Now the rubber meets the road.

We have been saying to you that $89 billion—which is what you needed for the trust fund—what you are doing is cutting $270 billion for Medicare.

In addition, we have said, what is the meaning of $270 billion of cuts in Medicare juxtaposed with tax giveaways, in the main, and $245 billion that goes to people with higher income?

You can drop the tax cuts down. It is time now to match your votes with your rhetoric. Why are you afraid of an up-or-down vote?

Mr. President, the only people that are terrorized here right now are some of my colleagues on the other side who are in terror that they might have to vote what they have said they believe all along.

Mr. KENNEDY. Will the Senator yield?

Mr. WELLSTONE. I am pleased to yield.

Mr. KENNEDY. Will the Senator agree with me that if our friends on the other side are really interested in reforming Medicare, they would drop the tax cuts for the wealthy and large corporations, drop that, and let us see if we cannot find some way of trying to deal with this in a medium and long term.

Does the Senator believe, and is it the Senator's view, if they were prepared to do that, that this particular proposal would be the difference?

Mr. WELLSTONE. Mr. President, I would say to my colleague from Massachusetts his question is right on the mark, because what people are saying in Minnesota and around the country is release permit us to be suspicious because you are cutting much more than is necessary for the trust fund. And we think you are making Medicare the piggybank for tax cuts for wealthy people. And, in fact, you would give up on these tax giveaways if we were not talking about the $245 billion—then I think we can get down to a discussion where we can focus on what we need to do. I say to my colleague from Massachusetts, for real reform.

Real reform. Mr. President, is universal coverage. Real reform is making sure that elderly people can afford prescription drug costs. Real reform is home-based care so that people can live at home in as near a normal circumstance as possible, with dignity, and not have to be institutionalized. Real reform is where there is a standard of fairness.

I tell you what is not real reform—reverse reform, where we cut $270 billion from Medicare and at the same time we have a $245 billion tax giveaway.

I have been in debates with colleagues, and they have said. I say to my colleague from Massachusetts, over and over and over again, no, this is all for Medicare. This is all for Medicare. This makes Medicare solvent. This reforms Medicare. This is for the good. This amendment puts them to the test. If that is the case, then vote against this amendment. Vote it up or down.

I find it just unbelievable that after all the speeches that have been given and after all the reassurances that have been given, my colleagues are unwilling to vote on this. That is what the second-degree amendment is all about. It is a huge dodge from a vote that people should have the courage to make.

One more time, in my State of Minnesota, 59 percent of senior citizens have incomes under $20,000 a year. In my State of Minnesota, many of our elderly live in rural communities, and those hospitals and those clinics have a huge percentage of their patient payment from Medicare and they do not have a profit margin. If you go ask those providers—has anybody asked them? Anybody asked the clinics? Anybody asked the doctors? Anybody asked the nurses? Anybody asked the physicians assistant much less the beneficiaries? They will tell you that they cannot survive some of these reductions. They will not be there to deliver health care.

So this is not about scare tactics. I say to my colleagues. This is about some unpleasant realities. And one more time, we have in our State 635,000 Medicare beneficiaries. It will be about 642,000. This is what we are talking about. Later on, we will talk about medical assistance. We have 425,000 beneficiaries of medical assistance. It will go up to 35,000. And anybody who wants to look at the policy carefully and understand its impact on citizens understands that the way you view health care is you look at the number of people who are going to be eligible. And the existing benefits are that people who need to have their health care and what the medical inflation level is, and these reductions fall far short of that.

I say to my colleagues, you just do not have a credible argument. You cannot cut $270 billion from Medicare at the same time you have $245 billion
of tax giveaways, mainly going to wealthy people. You cannot do it. It makes no sense. And with this amendment, introduced by Senator Rockefeller, we give you the chance to vote on what you say you believe in. We give you the chance for an up-or-down vote where you can match all of your speeches with your votes, where you can show people with your eyes, you can say we believe in all $270 billion is necessary in order to, as you say, save Medicare.

I do not think you are saving Medicare. I think in the name of saving Medicare, you are destroying part of Medicare. That is what this vote would have been about. I think the only people who are terrorized are colleagues on the other side of the aisle who are terrorized that they have to vote what they have been talking about for the last 6 or 7 months.

Mr. KENNEDY. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to yield.

Mr. KENNEDY. Again for a question. If this is such a great deal for the seniors, why do all of the seniors themselves and their principal representatives, the American Association of Retired Persons. Council of Senior Citizens, National Committee to Preserve Social Security/Medicare testify in opposition to the plan? If this is such a great deal—we listened to these Senators talk about it this morning for 5 hours. Then they finally came to the roll. Oh, no, you cannot even have a vote on your amendment, even though we think it is so great. If it is so great, why will they not defend that back home to their seniors? Why will they not be able to go into their senior citizens homes and be able to justify it?

They cannot do it. They cannot do it. And the proposal and the idea that we want to do for so long or long term, they could have done that before. They could have reported out something with those kinds of provisions. But no, suddenly when they are just about to call the roll, they pull this amendment out, and send it to the desk.

As we have said before, this is Halloween, and it is trick or treat time. This amendment is a trick on the seniors, this country, and it should not be accepted.

Mr. WELLSTONE. Mr. President, let me respond and then just simply yield the floor to some of my other colleagues who would like to speak.

First of all, let me just say to the Senator from Massachusetts and my colleague from Iowa—if I could get their attention just for a moment—it is very interesting you asked the question. This is so good for senior citizens and represents such good reform, with all the promises that have been made, how come all of the organizations and all the people who are going to be affected by this are opposed to it? The answer is there is a huge disconnect between these proposals and the lives of people back in the States. These proposals are very reckless with the lives of senior citizens. And it is the intelligence of senior citizens in Minnesota not because anybody is leading them around by their noses; it is their own intelligence and their own vision which tells them that these proposals are not in their best interests.

I have to say to my colleagues on the other side of the aisle that your refusal to vote on your own proposal does nothing to reassure them. We have been hearing your speeches forever. We have been listening to you on television. You have been telling the senior citizens this is going to be so great, and now you have a chance to vote what you say you believe in, and all of a sudden, I say to my colleague from Iowa, why are they just running away, running away?

That is my first point. My second point is that—I do not even remember my second point.

Mr. BOXER. Will the Senator yield to me for a question?

Mr. WELLSTONE. I would be pleased to yield for a question and then by then I will get my second point.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent for 3 more minutes so I can come up with my second point.

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

Mrs. BOXER. What I would love to do is simply say to my friend the reason he did not get to his second point is his first point was so good. But I have to say that I am listening to my colleagues—and I truly was not going to participate in this particular amendment. I had come over here expecting a vote on it. What do I find? We are blocking time. What is the other side afraid of if they are so excited about their plan? They are afraid to vote.

I will tell you why they are afraid. Because they know that the American people are waking up and they understand now it only takes $89 billion to keep Medicare solvent, and they are cutting $270 billion. We know they need to cut that much to come up with what I call the crown jewel of the contract, the tax breaks for the wealthy. And I say to my friend, because he has been working on these issues a long time, in his hometown and his home State do seniors understand why the Republicans want to give $5,500 a year back to people who earn over $350,000 while they destroy Medicare, Medicaid, student loans, and for God's sake, the nursing home standards? Do the people in his State understand that?

Mr. WELLSTONE. Mr. President. I would say to the Senator from California, no. And I think this becomes an issue of Minnesota fairness and people just do not find it credible—$270 billion in cuts in Medicare but only $89 billion needed for the trust fund, and at the same time $245 billion in tax cuts, disproportionately going to people on the top. No, this just violates the Minnesota standard of fairness.

My second point, which came to me, is that this whole business about some sort of a study of what the consequences of all of this will be, Senators, is that it is exactly the time that just came to us—2,000 pages. And my colleague from Utah, whom I deeply respect, said the more people in the country get to know about our plan the better they like it. People do not know what is in this plan.

I say to my colleague from California. I have said for the last month this is a rush to recklessness, and it is because when you talk to the people who live in the communities that are affected by this and deliver the care to Medicare beneficiaries, they are saying this will not work. There is a disconnect. Anyone can add numbers and subtract numbers, but, for gosh sakes, connect the dots. Look at the connection between your numbers and people's lives.

We never had one hearing on your final set of proposals, not one hearing, not one expert flown in from anywhere in the country, much less the opportunity to take this back to our homes and ask the people who are affected by this whether or not it will be beneficial to them. If we had an up-or-down vote on this amendment—

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. WELLSTONE. Then I think we would have had an opportunity for everybody to speak.

I yield the floor. I thank my colleagues.

Mr. ROCKEFELLER addressed the Chair

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this is an interesting—

The PRESIDING OFFICER. Who yields the Senator time?

Mr. ROCKEFELLER. The Senator from Massachusetts. I believe, is yielding me time.

Mr. KENNEDY. I yield the remainder of the time to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I give it as my general impression that the other side, the Republican party, does not want to vote on this amendment which we started hours and hours ago. We have had all kinds of delaying tactics and we had second-degree and first-degree amendments, talks about all kinds of time agreements, but not a vote, not a vote.

I have not been on the floor. I have been working with our leader out as we assume that this point has been made over and over again. One of the things that I think seniors should be aware of—is which has not been talked about at all in the Republican amendment for Medicare, which cuts $270 billion out of Medicare—is something called the
BELT agreement. It is not GATT. It is not NATO. It does not have forces, but it does have that most absolutely lethal effect. And it is tucked away inside the Republican Medicare plan. And BELT, because I know you are anxious to find out, stands for the 'budget expenditure limit tool.' Interesting phraseology.

This is a budget gimmick that poses a very dangerous threat to our senior citizens. And when our colleagues on the other side of the aisle say we are trying to scare senior citizens, one of the things that we are saying is that our senior citizens even know the beginning of what they would be getting into if we ended up with the Republican amendment to cut $270 billion and other matters. For example, the BELT agreement.

Now, let me tell you what the BELT agreement does. This is the Republican device that will make automatic cuts in Medicare for years to come—for your seniors, for automatic cuts in the Medicare program, for legislative authority, automatic cuts. And what will those cuts be made for? They will be made for the GOP tax breaks for the wealthy.

The budget gimmick is labeled, as I indicated, the ‘budget expenditure limit tool.’ And it is the Republican secret plan to make automatic cuts in the traditional—now catch my words—fee-for-service Medicare Program. Now, remember what we have been hearing this afternoon at great length is that ‘No, no, no, don’t worry about these things called HMO’s. Don’t worry about that, because 90 percent of seniors are already in the fee-for-service program. Of course they’ll be staying in the fee-for-service program.’

So all seniors are meant to relax when they hear that argument. But they do not understand the BELT agreement, the BELT agreement, the BELT agreement, is labeled, as I indicated, the ‘budget expenditure limit tool.’ And what it does is make automatic cuts in the traditional fee-for-service Medicare Program, without any action by the Congress or the President, for the next 7 years into the future.

Now, how would it work to hit seniors? First of all, it would put GOP, Republican, priorities ahead of seniors’ health care needs in three ways.

First, the BELT—this budget limitation tool for seniors on fee-for-service Medicare, ordinary Medicare. 90 percent of seniors—well, I would put a fixed annual target on Medicare spending. Oh, we have not talked about that this afternoon. We have not talked about a fee or an expenditure limit on Medicare spending. I have not heard that from the other side this afternoon, because everything was geared to have seniors believe, so long as they were in the Medicare fee-for-service portion that they are now in, that life continues to be cheerful and wonderful and there is no worry. ‘Don’t worry about that, HMO’s.’ But they did not tell us about BELT.

So the fixed annual target is set on Medicare expenditures representing the amount necessary to secure the funds that Republicans need for tax cuts for the wealthy. And it becomes an absolute limit on what Medicare will contribute to seniors’ health care. May I explain what is an absolute limit, a ceiling, on what Medicare will contribute to Medicare regular enrollees, non-HMO seniors’ health care.

Second, if Medicare’s bill exceeds this limit, the BELT, which is the budget expenditure limit tool, imposes automatic—what is my next word?—reductions, reductions, arbitrary in nature, in key Medicare spending in the following year, imposing cuts in Medicare. For example, reductions in inpatient hospital services, reductions in expenditure for inpatient hospital services, inpatient hospital services for seniors; home health services, reductions; hospice care services, reductions; diagnostic tests, reductions; physician services and outpatient hospital services, reductions. Mr. President.

I am sorry, I am sorry, this is in the Republican bill that is the one that we have not heard about it because we did not have much time. And, no, we did not hear about it in the Finance Committee because we spent about a total of 10 minutes debating this entire thing—10 minutes in all.

Mr. HARKIN. Would the Senator yield?

Mr. ROCKEFELLER. I would be happy to, although I have my third Draconian measure that I would like to mention.

Mr. HARKIN. This is startling news to this Senator. I am not on the Finance Committee.

Is the Senator saying that this BELT provision, which sounds to me like the old sequestration, whereas, if you do not hit certain targets, there is automatic across-the-board cuts, is that what is going to happen, automatic, in all these services?

Mr. ROCKEFELLER. The word ‘sequestration’ is incorrect. Mr. HARKIN. Well, what the Senator from West Virginia is talking about, are these BELT provisions, are they in this 2,000-page reconciliation bill?

Mr. ROCKEFELLER. Mr. HARKIN. Is that what the Senator from West Virginia is talking about, are these BELT provisions, are they in this 2,000-page reconciliation bill? Is that what the Senator from Iowa is talking about? They are in this thick bill someplace?

Mr. ROCKEFELLER. Yes.

Mr. HARKIN. I wonder what else is hidden in here. Two thousand pages, and we got it yesterday—2,000 pages. Who knows what is hidden in here—2,000 pages. We have not had 1 day of hearings on it. Not 1 day. And now the Senator from West Virginia has brought up something that this Senator was totally unaware of. I will be frank to admit to everyone.

Why? We have not had a chance to look at this thing. To be automatically imposed without any vote of this body or of the Congress of the United States. I find that incredible. I almost cannot believe it.

Mr. ROCKEFELLER. If the Senator will yield to his incredulity and mine.

I would add that under the Republican $270 billion cut, Medicare will be squeezed in its growth rate at 4.9 percent per person. Now, you go into the marketplace, people want guaranteed health care, that is going to grow at 7.1 percent. But they are going to hold it down to 4.9 percent for Medicare.

Now, this is for your Medicare. So what is going to happen? Obviously, spending for Medicare, because you do not reduce the price of health services for the elderly, you are spending less money, a million dollars that you are willing to pay, to make available to pay for them, the price will continue to rise as it has in the past. But the amount of money will be much less. So what, in fact, you have guaranteed is this BELT procedure.

Mr. HARKIN. Not only that, if the Senator would yield further, not only that, not only the price increase, but the number of elderly is going to increase. People are living longer. They are healthier than they are living longer. So you will have more people that bracket in the future.

So the belt is going to tighten even harder and faster because of both of those. I am just shocked about this. I am glad that the Senator brought this out today, there are very few people who understand this. We are indebted to the Senator from West Virginia for pointing this out. I just still find this incredible that this would be buried in this bill.

Mr. ROCKEFELLER. That is the point, I say to my friend from Iowa. And what is absolutely incredible is I have sat here under limited time, to be able to discuss any of this, this afternoon for hours, and I have heard all of this talk about this glorious ‘All those seniors’ in the fee-for-service Medicare Program are going to be happy. We don’t do anything. They are just there. They don’t have to join the HMO’s. They will be in that 90 percent of patients now or the President or the Congress, no nothing to cut their services and life will go on.’ But this BELT procedure is reserved exclusively for them. I say to the Senator from Iowa.

So they are going to cap this at 4.9 percent, even though the private cost of health care costs are going to be 7.1 percent. So it is automatically guaranteed there is going to be a shortfall, at which point the sequester falls in, the BELT falls in. The reductions are made in inpatient hospital services, home health services, hospice care, diagnostic tests, physician services—that means visiting a doctor and outpatient hospital services. That is the whole game in Medicare care. There is not much else you can do.

I will say, I made a mistake, because the third part of this is that under the plan, since the first-degree amendment of the Senator from Colorado wiped out the $8 billion reduction in Medicare and supplanting it with a $270 billion Republican one, what I failed to say...
was that, in fact, they have been at least kind enough to say that the Congress could adjust this BELT or do something with this BELT procedure, but only under a supermajority.

I am not sure what a supermajority is, but it has to be at least 60 percent. It is probably closer to 60% percent, which means that the Congress would not do it, so the BELT would be in effect.

Of course, BELT threatens access to choice. It applies only to Medicare fee-for-service expenditures. It hits only seniors who want to keep their current doctors. As a result, this budget gimmick will discourage doctors from accepting fee-for-service patients. Those across-the-board cuts in all these choices and their options. The Senator is 100 percent correct.

Mr. ROCKEFELLER. That is why you have to come up with gimmicks like this which you do not talk about on the floor of the U.S. Senate, because you do not want anybody to know about it.

Mr. HARKIN. I ask the Senator from West Virginia if he will yield for another question.

Mr. ROCKEFELLER. To the Senator from West Virginia, in saying that with this BELT provision, it is just another way of taking away more choice for the elderly, reason he do it, because you want to do it, you do it because you have to get that tax-break money.

Mr. HARKIN. I am coming to see.

Mr. ROCKEFELLER. That is why for seniors who want to keep their current doctors, is that right?

Mr. HARKIN. I am going to ask the Senator to yield again. I hold up this poster. I talked about it earlier. But just in light of what I have found out from the Senator from West Virginia of what is hidden in this bill, it reminds me of what the majority leader said just last night. I will quote again for the RECORD.

I was there fighting the fight—voting against Medicare—one of 12—because we knew it wouldn't work in 1985.

That was the majority leader just last night.

So I guess I would say, who do you trust? I keep hearing from the other side that they want to save Medicare. From what the Senator from West Virginia just pointed out on this BELT, it ought to be called the 'knife,' because they are taking Medicare. That is what they are doing.

I thank the Senator. He has done a great service in bringing this to our attention.

Mr. ROCKEFELLER. I thank the Senator from Iowa. I just simply say that it is a shocking thing. It is a hidden thing. It is malicious to seniors, and it is particularly embarrassing. I think, in the context of fair debate, when people all afternoon have been talking about the fact that seniors on Medicare in the regular fee-for-service Medicare system, which is 90 percent of the system now, will continue to have this wonderful existence, when they now effectively has been told that what they are doing is they are capping expenditures. They are capping expenditures several percentage points below what what the cost of expenditures will rise in health care and then guaranteeing.

Then the only way you can get out of it is through a supermajority, which I would assume is two-thirds of the Congress, which I think would be very hard to do.

It is also interesting that—well, Medicare recipients on top of this will pay more out-of-pocket expenses. In other words, there is going to be $700 less per beneficiary in the year 2002. It is going to double deductibles, raise premiums, raise the Medicare eligibility age to 67. These are all very important, very troublesome problems. Private health plans will be the minority leader indicated, by cost-shifting. Hospital closings will take place in States like West Virginia and, I assume, Iowa. I think most rural States.

Frankly, it is my judgment that doctors will be driven out of the program and will be turning away Medicare recipients.

Mr. HARKIN. If the Senator will yield again on that point, I will just say that you have failed to mention that the doctor is taking fee for service, and then you have this automatic provision to cut all these provisions, then it would be very discouraging to doctors to take fee-for-service elderly. Thus, once again, that would be lying—the intention of the Senators on the other side of the aisle that they want to provide more choices for seniors. They can have it all they want. You can say the money is made elsewhere and they do not make it so. The facts are that this bill is going to push the seniors out of their fee for service.

If the Senator will yield further for a question, I want to ask the Senator, what the Republicans are trying to do here with their $270 billion cut—and now with this BELT gimmick that I never heard about before—how that would work for an elderly person? I just wrote this letter from Iowa. A husband and wife—I will not use their names, because I do not have their permission yet. I will get in touch with them to ask for permission. They have total income per year with Social Security and plus they have an old house rental, is
$20,000 or less. She adds up all of their health expenses and premiums, which totals $7,668 a year out of a $20,000 income. She has diabetes and her husband has heart disease and a fractured hip socket. She had a stroke 3 months ago. She is talking about how wonderful Medicare care has been for them. She said, "People around here are worried that Congress is destroying the best programs in our country, which have made people's lives so much better. My late grandparents lived in poverty receiving welfare, month after month. Could we live on that?"

I ask the Senator from West Virginia, how could someone like this, making $20,000 a year—and I might add this: When I hear people on the other side of the aisle talk about the elderly, I swear all the elderly they know live in Beverly Hills, or Palm Beach, or something like that, because in my State of Iowa, 80 percent of the senior citizens make less than $20,000 a year, and 50 percent of the elderly in Iowa have incomes of $10,000 a year or less. That is what we are talking about.

Mr. WELLS. Well, the Senator yield for a second? How much out-of-pocket do they pay on health care expenses right now?

Mr. HARKIN. Well, right now about 21 percent of their income. So if they have $20,000 a year, you can figure right away that 21 percent of that—about $4,000 a year—is going for out-of-pocket expenses. One-fifth of their income is going out. Under the Republicans' proposal, that will go up, over the next several years, to 31 or 32 percent. So it will be one-third of their income that would go out. Right now, for us who are working, it is around 7 percent. 8 percent of our total income that goes for health care. So in Iowa, where we have a lot of our people making less than $10,000—and I have this letter which is a heartbreaking letter, where she talks about how much they have to pay for their premiums, what they have to pay for their deductibles and their copays. Their income is $20,000 a year. Mr. President, and they are paying $7,668 a year out-of-pocket. I ask the Senator from West Virginia, what hope would there be for this couple under the Republican proposal, cutting $270 billion out of Medicare? What could you tell this couple when their premiums and deductibles are going to double, yet, their income is not going to double?

Mr. ROCKEFELLER. Well, of course, Social Security will be cut, too, will it not under the Republican plan?

Mr. HARKIN. That is right. Not only that, but for some of the low-income elderly in Iowa making less than $10,000 a year, they are cutting the Low-Income Home Energy Assistance Program where they get a measly $80 or $100 a year to help out in that respect.

Mr. ROCKEFELLER. If the Senator will yield, after a period of 7 years. I believe it is, they are saying that you can no longer get Medicare when you are 65; you can only get it when you are 67.

Mr. HARKIN. It is going to go up to 67, right. The Senator is absolutely right.

If the Senator will yield further, the only thing I can come up with—and I really do want to know what they are doing on the other side of the aisle. I know they want to give tax breaks to their special interest friends. I understand that. That is what they want to do. They made their agreements and their contract, and they want to do that. But why do they believe they can take it out of the elderly? The only thing I can assume is that they think the elderly are so gullible that they are not going to pay attention. Maybe they are so busy, like this couple, paying their bills and making ends meet that they are not going to pay attention to what happens here. Maybe they are so busy doing what they do in the bank; that is not because. I am telling you, the elderly have to understand that this is going to hurt and hurt badly for the next 7 years.

Mr. ROCKEFELLER. If the Senator will yield, I think there is a very interesting point that goes along with all of this. The majority party—the Republican Party—has accused us of "fear mongering," and scaring seniors. Yet, for a long period of time—and in telling the truth, everybody is entitled to their own opinion but not their own facts. We have been talking about some of the facts which the Senator and I have discussed this afternoon, a relatively new fact in that 2,000 pages. But, hopefully, more people will know about that. What is interesting is that the American Hospital Association really did not get very much—even though they are getting terrible cuts, they did not get involved too much in taking all of this on.

The PRESIDENT PRO Tempore. The time of the Senator has expired.

The Senator from Michigan has 38 minutes.

Mr. ABRAHAM. At this time, I yield 7 minutes to the Senator from Minnesota.

Mr. GRAMS. Mr. President, if this is a contest of volume and rhetoric and half truths, we are going to probably come in second best. I would like to try to concentrate on some common sense and some truth about what we are trying to debate here on the floor.

We are really talking about a couple of major issues. One is that a lot of the debate is whether we are going to put a Band-Aid over the Medicare Program and extend it for maybe 2 years into the future of solvency, as the Republicans would. I know the Democrats will not do that, and then be back here in another year or two and debate this all over again. Or we are going to look at some real reform. We are going to talk about extending this program for the next generation, to make sure that we secure, that we improve, and that we protect the Medicare system, not only for those who depend on it today, but for the next generation as well.

If we do not begin real basic reform—that is, to reduce the rate of growth in this program, and we are not talking about anything, we are talking about trying to put some common sense into this program and put out there a Medicare Program that not only provides good service but is one that we can afford. If we do not, the alternatives are just a couple. Either we can do as the Democrats have proposed, and that is extend the life of this program for just 2 years so we can come back here and debate this all over again after the next election. We can do as the President and say let the trust fund go broke, as the trustees have told us it will do, in the year 2002. Or the other option would be that we can go back to the taxpayers with business as usual and say we need another $388 billion to keep this program status quo—business as usual.

That is what the Democratic answer has been over the last 30 years. Seven times they have gone to the taxpayers and said, "We need more money for this program," and raising taxes has always been the answer. But then the more people who go to the taxpayers, the more restructured, never restructuring the program, never trying to make it sound. Just more taxes. Throw more money at the problem and get us by another couple of years; just limp into the next century, and we will come back and address the question then. Then the linkage, the demagoging, of always $270 billion in reduced growth—not in cuts, but reduced growth—and they link this always to $245 billion in tax relief. They seem to have some kind of an objection to letting Americans keep more of their own money.

If this were a repeat of the 1993 record increase in taxes they would be down here in a second to voice to raise your taxes. But if you talk about tax relief for American families, hard-working families, they just demagoged this to death. They do not want you to keep any more of your money.

Somehow, somehow the thought and the notion in this Capital City has been that the money belongs to Washington. We are going to decide how much to dole back to you, the hard-working Americans.

Those who get up every morning, go to work and put in 40-plus hours a week, husband and wife trying to take care of their family—they do not think you can spend their money as wisely as they can in Washington. If they allow you to keep this $245 billion over the next 7 years, you might spend it foolishly—like on frilly clothing, shelter, education for your children. You might do something stupid with your money. So, send it to Washington and they will make sure that it is spent more wisely.

And talk about the scare tactics. Fearmonger. They are not throwing out scare tactics. For the last hour, we have sat here and listened to nothing but scare tactics, that we are somehow gutting this program, that there will
not be a dime for Medicare, for our senior citizens over the next 7 years or bu-
god bless you.
If that is not a scare tactic, telling every senior citizen in America if we do not buckle under and not give any tax relief or raise taxes, that somehow all Medicare will disappear. My grand-
children are not going to get one of these scare tactic letters from her Demo-
cratic Congressman in northern Min-
nesota. It said that somehow the Re-
publicans are going to put you into the street because they are going to take away Medicare.
Now, for a 92-year-old bedridden woman to get a letter like this, if this is not scare tactics, I do not know what it is. To hear the rhetoric we have heard and will continue to hear. If that is not scare tactics, without addressing the problem, if the problem is so bad, where have the Democrats been over the last 30 years? How come all of a sudden we are on the brink of disaster, if they have all the answers today?

I cannot understand why a $500 per child tax credits somehow does not work in with their plan.
Another thing, the $270 billion in re-
forming Medicare. Now, if we do not do this again, the trustees are saying it will go broke, that somehow Medi-
care—we know that over the next 7 years any savings in Medicare has to remain within the trust fund. There is a firewall.
In fact, Republicans have an amendment, as our amendment notes, using Medicare savings for tax cuts would be illegal under the Finance Committee bill. The Senate committee bill says it would be illegal to use it for anything but Medicare.
There is no linkage. The only way we can have tax relief is if we reform it and balance the budget. If we can do that, then the benefits are going to be spent tax relief for hard-working Amer-
icans who have been paying $245 bil-
lion—do you realize that is only 1.5 percent of our total expenditures over the next 7 years?
But it sounds like that if somehow we give this small tax relief to Amer-
ican residents and hard-working mid-
dle-class families, that somehow this whole country is going to unravel: if we talk a talk that $245 billion and shift it out of Washington and into the hands of families, that somehow this whole country is going to collapse, because we have taken another $245 billion from bureaucrats in Washington to spend as they want.

So, again, one other thing I want to mention, if the Government is going to somehow pay for all of this, if we cannot afford it ourselves, how can we af-
ford to let the Government do it? We cannot.
If we cannot as a society, as individ-
uals or as families, somehow afford this, is the Government automatically going to have enough money in Wash-
ington to spend as they want. Washing-
ton does not create wealth. It collect it and redistributes it.

Is this good for seniors? Yes. Mr. President, it is good for seniors. It will make sure that Medicare is protected and preserved.

Mr. WELSTON. Will the Senator yield?
Mr. GRAMS. I just have a few min-
utes left.

The PRESIDING OFFICER (Mr. ABRAHAM). All time has expired.
Mr. GRAMS. I think this is some-
thing that is so important that we can-
not ignore it, and we have to make sure that the delinquent is reimbursed and protected not for an additional 2 years but for the next generation.

I yield the floor.
Mr. PRIST. Mr. President I yield 8 minutes to the Senator from Wyoming. Mr. THOMAS. Thank you. Mr. Presi-
dent.
I come to change the tone a little bit. I have been sitting here for 3 hours and have heard nothing but negative, de-
pressing things today.
I am excited about the opportunities that we have. I am excited about the opportunities that we will have to do something that the people who have been complaining here have not done for 30 years. We will have a chance to balance the budget. We have not done it for 26 years. We will have a chance to do something about welfare. We have not done it for all these years. We will save Medicare. We have not had a plan to do that. We will leave a little more money in the pockets of Americans.
Now, that is not a bad idea. That is a pretty positive kind of a thing. It seems to me.

Frankly, I get a little weary of the same folks that have been here, who have brought us where we are, that we need changes, and they resist changes.

I expect something different to hap-
pen by doing the same thing. I do not understand that.

That is what we have heard all after-
noon. Do not change anything. Things are not bad, they are going to get worse.
Someone mentioned the difficulty in rural States. I come from a rural State.
As a matter of fact, there are a number of things here that I think will be greatly strengthened, including the health program in rural areas.

There are several specific things here that I want to mention. One is limited service hospitals. We have, over time, developed hospitals. We were encour-
ged over the years—properly—to de-
velop full service hospitals in small towns. Quite a few of them sometimes were just 20 miles apart.
In Wyoming, we had a hospital with 4 percent occupancy. It cannot exist at that. So it has to fail.

So we will change in this bill the qualifications of a hospital so that you can have limited service hospital, still be reimbursed by HCFA. The Fed-
eral Government for stabilizing facili-
ties, for emergency facilities, so you can move to the next hospital. It would be a great asset. You need something in a town but you will not be able to have a full service hospital. That will be done here.

Medicare dependent hospitals—the 1993 budget let that program expire. We are going to reinstate that. The pur-
pose is to assist facilities in high Medi-
care patient loads and Medicare.
The extension of the sole community hospital status, hospitals that have less than 50 beds, 35 miles away from the nearest hospital, will continue. This is good stuff for rural America.

It is a legacy HMO payments in Medicare. There is a great disparity now. We se-
tied that on the basis of fee-for-service as it existed. In Bronx County, New York, $678 can be paid per month for HMOs under Medicare, Fall River Coun-
ty. South Dakota, on the other hand, gets $177. We will fix that. That is good for rural America.

Medicare bonus payments to physi-
cians will be increased from 10 percent to 20 percent. We talk about bringing some providers into the rural area. This will do that. Telemedicine grants—we have a great opportunity to increase services with telemedicine grants in rural communities.

I understand the marketing device, of bringing some providers into the rural area, bringing some positive things here, starting with the fact if you do not do something it fails. Second, you can preserve it for 2 years or you can preserve it for longer than that, and we are going for the long haul.

There are positive things here. One of them is the help for rural areas. Like my State of Wyoming. I am very pleased we are looking forward, in these next 2 days, to do some positive things. I hope we begin to talk about the benefits that can accrue. benefits that will accrue, rather than seeking to worship the depressing scenario we have been going through for the last couple of hours.

I yield the floor.
Mr. SARBAVES. Mr. President, I rise to today to join my Democratic col-
leagues in expressing deep disappoint-
ment and outrage at the way in which those on the other side of the aisle have chosen to handle this critical issue.

Several weeks ago, I participated in hearsings organized by Senators KEN-
NEDY and ROCKEFELLER because it was— and remains— the view that the public ought to have the opportunity to review and understand what is being proposed by congressional Republicans with respect to the Medicare Program.

During these hearings, we heard tes-
timonal from the trustees of the Medi-
care Trust Fund. We believed it was important to hear from the trustees in order to give them the opportunity to clarify any misrepresentation of their views. I am sure that the future solvency of the Hospital Insurance Trust Fund and to get their analysis of the Republican proposal to cut $270 billion from the Medicare Program.

What we found was that the Medicare trustees do not even suggest that that billion is required to address the prob-
lems of the trust fund. In fact, the
trustees made it very clear that $89 billion over the 7 years is all that is required to address the long-term solvency issues of the Hospital Insurance Trust Fund. In a recent letter to Republican leaders DOLE and GINGRICH, Secretary Rubin specifically stated, and I quote here:

No member of Congress should vote for $270 billion in Medicare cuts believing that reductions of this size have been recommended by the Medicare Trustees or that such reductions are needed now to prevent an imminent funding crisis.

The amendment offered by Senator ROCKEFELLER gets right to the heart of this issue. Senator ROCKEFELLER's amendment would recommit the Medicare portion of the reconciliation bill with instructions to the Finance Committee to eliminate cuts beyond the $89 billion that the Medicare actuaries certify is necessary to ensure solvency through 2006.

Now, we find out that we will not be permitted a straight up-or-down vote on this amendment. I say to my colleagues on the other side of the aisle, if you will say, as you say, that a $270 billion cut is needed to save the Medicare Program, then this vote should be simple and we should all have the opportunity to make our position clear on this important matter.

The effort to prevent a clear, recorded vote on Senator ROCKEFELLER's motion is even more distressing in light of the absolute refusal of the Republican leadership to hold the kind of open, public hearings that an issue of this magnitude requires. What they have done is spring the legislation on us and then immediately move to mark it up and report it to the floor without any chance for careful examination or thoughtful consideration by our colleagues for our senior citizens. They try to move it so fast that people cannot, in effect, identify what is being done.

The best description of what they are doing, in my judgment, is an act of political assassination. The Republican political analyst, Kevin Phillips, in a recent radio interview where he was quoted as saying—now this is not me talking; this is the Republican political analyst, Kevin Phillips. And he said, and I quote him:

This revolutionary ideology driving the new Republican Medicare proposal is not so much a new way to cut middle-class programs as much as possible and to give the money back to private-sector business, finance and high-income taxpayers. Rhetoric about the cuts being a necessary part of the policies, redefining GOP motivational reality. Remember, at the same time as the Republicans propose to reduce Medicare spending by $270 billion over seven years, they want to cut taxes for corporations, investors and affluent families by $345 billion over the same period. This is no small difference.

The fact of the matter is, the Republican Medicare reform proposals are not about saving Medicare or about protecting senior citizens. They are not about true reform. To reform, by definition, makes it better or improve by removing faults. I submit that this entire reconciliation package is driven by an insatiable desire to give further large tax benefits to very wealthy people.

Mr. President, it would be truly irresponsible for the Congress to assent to sweeping and drastic changes to the Medicare system without a thorough discussion of what those proposals mean to our Nation's health care system, and to the people it serves. We have been afforded the opportunity for such a discussion and I regret that we will also not be afforded the opportunity to have straight up-or-down vote on this amendment.

Mr. President, I yield 4 minutes to the Senator from Iowa.

Mr. GRASSLEY. Mr. President, the amendment that has been offered by the other side of the aisle is a statement that the Members on the other side of the aisle have lost their nerve. They have lost their nerve to really do something big about Medicare before it is too late.

We all know from the President's own people that Medicare will be bankrupt in the year 2002. This bill will put forth by the majority party guarantees that Medicare will not be bankrupt by the year 2002.

The plan that is put before us addresses only the Part A trust fund. We all admit that there is a crisis in part A. Because growth is at a very robust clip of 8.4 percent, their plan does nothing to address part B. Part B is growing, as we know, at 14.5 percent, an unsustainable rate. So I think we all have to question their logic that they raise a point about 8.4 percent being a crisis but will forget about the part of Medicare that is growing almost twice as fast, at 14.5 percent.

It is a simple fact. If we do not act now, there will not be a system around when baby boomers retire. The longer we put this off, the harder it will be to address. Just look at how difficult a time we are having to apply a stitch in time. The scare tactics being used now by the Democrats, of course, will look like Halloween compared to what we will see if we continue to put these reforms off until the years 1999, 2000, 2001. Maybe they will not even be dealing with it in 2002.

Then I look at the recent discussion from the other side of the aisle on the provisions dealing with what is called the "BELT." We have been fed a lot of horror stories by the other side. If I get any message from the seniors of America, it is this. They think the cost of medical care is too high and they blame us, because it is a Government program. For it being too high. They expect us to do something about the bills. They expect us to do something about the cost of Medicare. This provision only makes sure that Congress lives within its spending authority.

To any senior anywhere in America if they believe in a balanced budget, they will tell you that they do believe in a balanced budget. Ask them if they think there ought to be some limits on what is spent on a Government program, health care or anywhere else, and they will say, yes, there should be.

That provision is in the bill to guarantee that costs do not exceed spending targets.

The impression was left from the debate between my colleague from Iowa and my colleague from West Virginia that this has never happened before. It did happen before. In 1987 there was a limit of 2 percent, so do not say this is a provision that has never been applied before. It has been applied before. Do not say that this is a system Congress has no control over, because the law provides for a review by Congress, so that we have the bullet and take action before the President does, we can and we should and will.

Mr. FRIST. Mr. President, I yield 7 minutes to the Senator from Okahoma.

Mr. NICKLES. Mr. President, first I wish to compliment Senator FRIST, Dr. FRIST from Tennessee, for his leadership on this issue. I think he has brought a great deal of experience and expertise on the entire health care debate, and I very much appreciate for it.

I also wish to compliment the Senator from Colorado for this amendment. The amendment that we have basically says this reports with instructions back to the Finance Committee to make sure that we have a lockbox provision to make sure all the savings or changes that we have in part B go into the savings in part A so it will help make sure part A does not go bankrupt.

Our colleagues on the other side do not have that in their provision, but I think it is a very good, solid provision. It is one the Finance Committee adopted. This is kind of a second key on the lockbox to make sure that of any of the costs that would be incurred by beneficiaries, that 100 percent of those costs go directly into the solvency of the Medicare trust fund. I think that is an excellent amendment, so I appreciate my colleague and I urge my colleagues to support this amendment.

Some people have alluded to the fact, well, we do not really have a problem with Medicare. I beg to differ. The trustees report clearly states we do. We have seen charts that next year under Medicare we start paying out more money than we take in, and that over a 7-year period of time the trust fund is totally used up and then they cannot pay the bills. That is not acceptable. That is not an alternative that is unacceptable to anyone.

Some say the $89 billion would solve the problem. It does not even come close to
solving the problem. If we take the changes that we have proposed in the Finance Committee, reiterated by the amendment that we have from the Senator from Colorado, we are ensuring the trust fund. We are saying we are going to make some changes in part B. As the trustees said we should, because the Part B trust fund has problems, it is running out of money. We take those savings and use that to ensure the solvency of part A. That makes sense.

We are going to keep part A solvent, not just for 2 years but, really, for more than 10 years. I think that is an excellent step in the right direction. What have we done in the past when we had a problem under Medicare? In the past we have had problems. We have had reports from the trustees, as was alluded to by some of our colleagues, that it is running out of money. What have we done? Every time in the past what we have done is we have increased payroll taxes. We have had big, big increases in payroll taxes.

There are only two ways you can solve the Medicare trust fund problem. You either increase the money going into that is paid for by a payroll tax. Presently we are paying 1.45 percent; the employer pays that. The employer opposes that. So it is 2.9 percent of payroll going to fund Medicare. That is what the President's figures were for 1998. What have we done? Every time in the past what we have done is we have increased payroll taxes. We have had big, big increases in payroll taxes.

So what did we do? We said, let us reduce the rate of growth in spending. Some people said, you are cutting $720 billion. We are spending, today, $178 billion in Medicare. In the year 2002 we are going to spend $286 billion. That is an increase. I am going to put into the RECORD how much Medicare spending is increasing every year. Most people say 6 to 7 percent. Actually, it averages out right at 7 percent. So I will put this into the RECORD.

It is interesting. I went back to see what the President's figures were when he revised his budget on June 22, 1995. What did the President figure for Medicare? Guess what? He proposed raising the payroll tax. He uses OMB. He uses a different baseline, uses different growth rates, but the differences in outlays are minuscule.

In 1995, he estimates we are going to spend $4 billion less than what CBO does. He says 7.6. In 1996, we estimate we are going to spend $19 billion. He is trying to show you something—I want to put something in the RECORD. In the past, all Congress has ever done is increased payroll taxes. I just ask a question. does anyone know what the maximum tax rate is, if someone paid maximum taxes in Medicare in 1978, what the total tax was for them and their employer combined? It was $177.

Do you know what the maximum tax rate was in 1995? It rose a little bit. It went from $177 to $3,915. And today it is even more, because we took the cap off. So it went from $177 to over $4,000 in a period of 15, 17 years. There are unbelievable increases in premiums, and that is still not enough. It is an unbelievable increase in taxes, and it is still not enough.

So what did we do? We said, let us reduce the rate of growth in spending. Some people said, you are cutting $720 billion. We are spending, today, $178 billion in Medicare. In the year 2002 we are going to spend $286 billion. That is an increase. I am going to put into the RECORD how much Medicare spending is increasing every year. Most people say 6 to 7 percent. Actually, it averages out right at 7 percent. So I will put this into the RECORD.

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In 1995, he estimates we are going to spend $4 billion less than what CBO does. He says 7.6. In 1996, we estimate we are going to spend $19 billion in our proposal. The President says we are going to spend $192—almost identical. In 1997, he estimates we are going to spend $207 billion, a 7 percent increase. The President's figures were for Medicare. Guess what? He proposed raising the payroll tax. He uses OMB. He uses a different baseline, uses different growth rates, but the differences in outlays are minuscule.

In 1995, he estimates we are going to spend $4 billion less than what CBO does. He says 7.6. In 1996, we estimate we are going to spend $192—almost identical. In 1997, he estimates we are going to spend $207 billion, a 7 percent increase. The President says we are going to spend $192. Almost identical. In 1997, we estimate we are going to spend $207 billion, a 7 percent increase. The President says we are going to spend $208 billion. In 1998, there is only $3 billion difference. In 1999, the President said we should spend $5 billion more.

My point being there is very little difference in outlays estimation. Granted, the President is using OMB, he is using a rosier scenario, forecasting a lower growth rate in Medicare costs. But there is very little difference in outlays between what the President is estimating we are going to spend in Medicare than what we estimate using the Congressional Budget Office. Why did we use the Congressional Budget Office? Because that is what we agreed to use. That is what the President said he would use when he gave his State of the Union Message. He said he was going to use the Congressional Budget Office. Now he is not doing it. Now he is not doing it. But we are.

Mr. President, I am going to ask unanimous consent to have printed in the RECORD the Medicare spending comparisons. Both by this budget resolution that we have before us and by the President, and tell my colleagues that over the 7 years, our plan says we should spend $1,653 trillion. And the President, over that same period of time, spends $1,676 trillion, a minuscule difference in the total spending over that period of time. Of $21 billion—the difference in outlays between the President's budget and our budget is not granted that he uses OMB and a rosier scenario.

Also, Mr. President, I am going to ask unanimous consent to have printed in the RECORD the growth rates of the maximum amount taxable for Medicare, the tax rates, and the maximum amount paid. Because it will shock our colleagues to find out that in 1978 we were spending total taxes of $177. And today the maximum tax is over $4,000. That is still not enough. That says we need to reduce the rate of growth in this program, not increase taxes.

I compliment my colleagues for this amendment.

I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows.
Mr. FRIST. I yield 7 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I too listened with great interest to some of the rather vigorous debate. I believe it is the phrase. It was rather strained a tad on the snap, almost a little bit hysterical. I thought a time or two also, just hearing snatches of it from those on the other side of the aisle. It would, indeed, as my good old friend from Wyoming has indicated, make you weary and tired.

What will make you even more weary is to read once again, which has been alluded to many times in this debate. "The Status of the Social Security and Medicare Programs in the United States of America," this wonderful little yellow pamphlet which has been recommended to all Americans for many months now. And I wish I could put it in more earthly vernacular, and I could put this for the limit one in that particular dependency, so let us just say that Social Security is going to go broke and Medicare is going to go broke. So if you want to have another TV ad of somebody smashing, indeed, almost a deal with the pitch that the Republicans are doing something horrid, get a real picture of someone who is watching Medicare go broke in the year 2002, where you could have a "lucky" benefit in the years out; you have no benefit. Try that one on.

So too even with the hard work we have done here, be of stout heart. For Medicare will not go broke in the year 2002. It will now go broke in the year 2008. So gird your loins, cheer yourselves, and know that the draconian activity we have undertaken here on our side of the aisle—and we will do it, and we will do it by our own selves. We will save it till then. And in a year we will tell the American people what we did, and they will be very pleased. This is what we are about.

I have not heard a single recommendation from the other side of the aisle that would do anything, and certainly $89 billion is not going to do anything because they did not even talk about part B. How phony can you get? I want to talk about part B. Mr. President, does anybody in America believe we will not get there? There is not a single person on the other side of the aisle that does, and the President of the United States of America has already recommended that Medicare not be allowed to increase over 7.1 percent and not 10.5. We all know that. I hope the American people cut through the babble on that.

We all know the President of the United States has now said we will have a 7-year budget instead of a 10-year budget. It is good that he is calling for that, and his 10-year budget thing was just a thing. It was not a budget. So we will address that.

Now he has admitted that he went too far in raising taxes. I saw a fellow get beat on that once in a campaign—two of them. In fact, now, surely, perhaps three.

So we are ready to go. We will go over the cliff together. We will not get a single vote on the other side of the aisle. And between now and next October, next election season, we will describe to the American people just exactly what we did, how we saved Medicare, how we began to get on track again all over the United States, and all over the world with our work, with our debt limit, our deficit, our savings rate with all of the things that are critical to us, and be a solvent country.

But in the next few days, and weeks, we will be accused of being the party that broke all the ketchup bottles over the heads of every child in the first grade, threw all the bed pans out of the nursing homes, destroyed every possible facility that shelters the home-less, the aged, and the infirm. And be ready for that.

And the charge may be led by the AARP, which is a group of 33 million Americans bound closely together by a love of airline discounts, automobile discounts, and insurance discounts—one of the biggest businesses in America. I call them "the group that is engaged called 'tax advice' for their members," and this is a group that has paid the IRS $135 million in back taxes. Boy, I would love to have them giving tax advice! They need all the money they can to figure out how to get back $135 million. So be Dig in. We are going to have a lot of fun. And when it is all over, we will have the votes. And when it is really completed, the American people are going to be very excited and pleased months from now when they figure it all out as to what we did and what they on the other side of the aisle did not do.

Mr. D'AMATO. Mr. President, will the Senator yield for a question?

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

Who yields time?

Mr. FRIST. Mr. President. I give the Senator from Wyoming an additional 2 minutes.

Mr. D'AMATO. Mr. President, will the Senator comment on—how much? I think the Senator previously talked about, how much does the AARP have in investments?

Mr. SIMPSON. They are a ragged lot. They still have just a tattered bank. They are muffins. They have a building downtown here which could be described as "the Taj Mahal." And their lease rental there per year is $17 million—$17 million a year on a 20-year lease. They have $314 million in the bank in T-bills. They get $106 million a year from Prudential Life Insurance, taking 3 percent of every premium. They get premiums and royalties from Scudder on their investments from New York Life for the R.V. insurance. They are a big, big, big business, and they also get $86 million from the U.S.A. to run some of their programs on top of all that.

Mr. D'AMATO. I thought it was interesting that they have over $300 million in Treasury bills that they have invested.

Mr. SIMPSON. That is true. But they are just struggling along. And we want to hit them a lick. And because my mail is running 16 to 1 against the AARP, and most of it comes from their own members who say, "I am still going to pay the 8 bucks, but go hit 'em a lick." And I am certainly going to be delighted to do that.

Mr. FRIST. Mr. President. parliamentary inquiry. Time?

The PRESIDING OFFICER. Five minutes remain on the Senator's side, no time remaining on the other side.

Mr. FRIST. I would like to yield the remaining 5 minutes to the Senator from New York.

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

Mr. D'AMATO. Mr. President. I thank the Senator from Tennessee. He has done a magnificent job in attempting to combat the demagoguery that comes from nothing but partisan poli-tics. And I have to tell you something. If it is not the drumbeat of the AARP, which is bad enough, scaring seniors, you cannot make a call into my office and they have already been absolute frighted. And I wish to apologize to the senior citizens for all
of the fright that they have gone through. I think it is a shame. I think it is a shame that maybe we have not done a better job of getting the message through. I think it is a shame that some people who call themselves champions of the underprivileged have engaged in demagoguery that has hit new heights.

Only in Washington can you spend $110 billion more for a program, which we will be doing in Medicare over the next 7 years, $110 billion more, increasing the already out of control inflation, and call that a cut. Only in Washington can you take the average recipient who gets about $4,800 a year in benefits and almost increasing it by $2,000 so they will be getting $6,700 a year and call that a cut. Only in Washington can my colleagues on the other side demagog it and get up there with the big voice: Oh, we are going to cut: we are going to kill, to destroy, to bankrupt us in less than 7 years. We have not even 7 years from now in the year 2002. We have never previously had an opportunity to do correctly and well any one of these things, much less all four of them together.

It is a shame that maybe we have not done a better job of getting the message through. It is a shame that maybe we have not done a better job of explaining what is going to happen. It is a shame that maybe we have not done a better job of getting the message through.

We hear yelling and screaming about the families, when we say, by the way, that those people who have incomes of $150,000, by gosh, should pay for it. We are working middle-class families subsidizing the wealthy. That is not true. They are going to give you less and indeed, we are increasing that program again by $110 billion more.

Somewhere we have to do a better job to get the message out. But that does not negate the negativity, the demagoguery, the sheer hypocrisy that comes from the other side. I have to tell you something. I make no apologies for branding their brand of legislatival acumen in that manner because that is what it amounts to—sheer demagoguery.

Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. How much time do I have to speak?

The PRESIDING OFFICER. The Senator has 25 seconds.

Mr. DOMENICI. Just 25 seconds. Does anybody want 25 seconds on our side?

Does the majority leader want 25 seconds?

Mr. Dole. No. Keep counting.

The PRESIDING OFFICER. The PRESIDING OFFICER. Time has expired.

Mr. DOMENICI. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Mr. GORTON. Madam President, the majority leader yields to the Senator from Michigan.

Mr. GORTON. Thank the Senator from Michigan.

The PRESIDING OFFICER. The Senate is in recess until 11:30 a.m., WASHINGTON, D.C., October 25, 1995.
October 25, 1995

CONGRESSIONAL RECORD — SENATE

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economy will grow sufficiently to provide an additional $70 billion in revenue, a growth of 4% of the economy itself and as a result of lower inflation and lower interest rates—a $170 billion. Madam President, for the Government of the United States. But that figure is not the total of the benefit to the Federal Government of the United States. It is only the share of the Federal Government. The total benefit—roughly four times that—will approach $1 trillion.

Where will the balance over that $170 billion come from? It will be in the pockets of the American people in the form of higher taxes. In the form of lower interest payments on the homes that they purchase, in the form of better jobs because of greater opportunity that the society will create. That is the reward—the cautious and conservative reward—that this country and its economy and its people can and will receive from a balanced budget. That is an argument that has been almost totally overlooked in this debate over specific programs and precise benefits, tax breaks, and the like. That simply by engaging in this action we will provide Americans with a brighter and a better economic future.

Of course, Madam President, that $170 billion of additional resources for the Government of the United States represents, itself, the overwhelming bulk of the tax relief which is contained in this proposal, and is conditioned upon this proposal becoming law in a way that will in fact balance the budget. When you add to that the closure of various corporate loopholes, the overwhelming majority of the tax reductions have as their source either those loophole closings or the fiscal dividend—the $170 billion dividend we get—simply because we will have balanced the budget. And it is our firm view that that dividend ought to be returned to the American people in the form of lower taxes and not retained by the Government for its programs.

As I said, Madam President, we do not have an alternate vision; we have an alternate set of criticisms. No, we cannot do this. No, we dare not do that. We do not reduce that program and, above all, we do not dare reduce taxes on the American people. That alternative course of action is one which says, essentially: that the status quo is the best we can do. That whatever we have done in the past, we ought to continue to do in the future; that we can afford to ignore almost completely, but not quite, all of the challenges and problems that a rapidly growing middle-income families are facing by the rules. In my State of Michigan they are doing the things we need to keep our economy strong. They are average men and women whose income, at least in my State, for a family is about $32,000. They work hard for those dollars.

Some time ago in the 1950's and 1960's those average working Americans like my own sent $1 to Washington for every $50 it earned; today that average family in Michigan spends $1 in Washington for every $4 it earns.

In part, I came here to the U.S. Senate and ran for this office so that families who are sending too many of their dollars to Washington would get a chance to keep more of what they earn.

We talk a lot today, and we have seen charts in the Senate over the last few months in which we talk about the problems of the so-called middle-class squeeze, the economic pressure on hard-working average middle-class families in our country to make ends meet.

We are often told it is so unfortunate that it is now necessary often for two people in the household to work in order to be able to attain the same economic conditions that used to be available to middle-class families with only one person out there in the work force.

A lot of speculation goes on in the news as to what would be the impact of middle-class squeeze happening? Why is it that two people have to work to make ends meet?

A big part of the answer, Madam President, is the taxes have gone up so dramatically during the last 30 to 40 years in this country, and dramatically in just the last 2 years alone.

The fact is if the average family in Michigan was still sending $1 in Washington for every $50 it earned, the financial security that those families would be a lot greater today. The combination of paying higher taxes and paying higher interest rates on all the sorts of things that people in my State have to pay interest on, whether it is a mortgage for a home or a car payment or interest with regard to consumer items or interest on student loans, if those interest rates were lower, people in my State would be better off as well. But they are not now.

One reason they are not low is because the Federal Government has not
balanced its budget in the last quarter of a century. As we run up red ink in Washington, as the Federal Government is forced to exercise in their own lending institutions, from individuals, from whomever, we have driven up interest rates.

The middle-class families find themselves in two separate ways dramatically affected by the policies here in Washington. On the one hand, it does not get to keep as many dollars as it earns because it has to send more dollars to Washington in taxes; and then with those fewer dollars that remain it has to pay more in the way of interest because Government policies have helped to drive up interest rates, because we cannot live here in Washington within our means.

That is why in this legislation we are trying to correct the two problems that afflict those middle-class families. On the one hand, we are trying to give middle-class families the kind of Federal Government fiscal responsibility that they have to exercise in their own homes. What we are trying to do is to bring about ultimately at the end of 7 years the balanced budget that has eluded us here in Washington for a quarter of a century. As we bring down the deficit and as we maintain a balanced budget and as we maintain a balanced budget after the year 2002, the impact of that will be a dramatic effect on middle-class families.

That will bring down the deficit, as we recognize in our own CBO reports here, interest rates that the Federal Government has to pay will go down. That will save money for the Federal Government. It will also mean that interest rates in the private sector go down. It means the interest that people who are watching today and hearing all these frightening stories, as they go out and then into the marketplace, will then go out to buy a car for the family, as they go out to make other purchases that are affected by interest rates, will find their interest rates, just like the Federal Government interest rates that they have to pay, will be coming down, which will make items more affordable.

That is one reason we are trying to bring this budget into balance. At the same time, we are trying to address the other problem that affects average American families, the problem of sending too many dollars to Washington. That, of course, leads us to the issue of our tax cut.

There have been many, many descriptions of the tax cut. The tax cut was being described before it was even even talked about in the Senate. Before it was addressed, before anybody put a pen to paper or to try to draft a tax cut. It was always described the same way it is being described today, as a tax cut principally desired by Republicans to be given to the wealthiest of America.

I was astonished when the other day in our Budget Committee meeting when we finally passed the reconciliation package to the floor, to hear talk that over half—over half—of those benefits from the tax cut were going to go to the wealthiest families in America. That was not the tax cut I had heard about. It was not the way I had seen it described. I had even read the Washington Post in which the Washington Post described the tax cut as "family friendly."

I went out and asked for statistics and I was presented with the Joint Committee on Taxation's specific results of their analysis. Here is what I found. In its first year of the tax cut 90 percent of the tax cut goes to those making under $100,000 in the first year, 77 percent of the proposal's tax cuts go to those making under $75,000 in that first year. Less than 1 percent of the proposal's tax cuts go to those making over $200,000 in the first year. Over four-fifths, 84 percent of the proposal's tax cuts go to those making under $100,000 in the first five years. And at least 70 percent of the tax cuts go to those making under $75,000 in those first 5 years. Less than 6 percent of the proposal's tax cuts will go to those making over $200,000 in the first 5 years.

That is a completely different set of statistics than the ones presented to us at the Budget Committee. It is not the case that over half of the tax cuts are going to people making over $100,000. That was presented to us as a fact, quite wrong.

This is a family friendly tax cut. It is designed to address the second problem I earlier mentioned. the problem that middle-class families have had, the squeeze that has been put upon them because they have had to send too many dollars to Washington. I did not want to just leave it at the Joint Tax Committee's numbers. Now, we had competing sets of statistics so I thought that the next most important thing I could do would be to look at the specific components of the tax cut to see which of the two versions was accurate. What I discovered was that, of course, the Joint Tax Committee's version, their statistics, are right on the mark.

Let us tell the American people some of the things that comprise this tax bill.

First, it provides a $500 per child tax credit for American families. That constitutes $141 billion of the $225 billion in tax relief under this bill, over 60 percent.

Some say for some of those children, they are part of families that make lots of money. That may be true. But, of course, this tax bill has been limited in its scope. Indeed, the $500 per child tax credit begins to be phased out, in the case of families with a single head of household of $75,000, in the case of a couple at $110,000. So, unless people between $100,000 and $110,000 have a vastly disproportionate number of children, the argument that many of the tax breaks from the family tax credit are going to wealthy people, as defined by some people here in Washington, just is simply not the case. Of course it is not the case.

President. $141 billion, 62 percent of the family tax relief section is an adoption credit. That accounts for almost, $2 billion of this tax cut. It is a nonrefundable tax credit allowing for the exclusion of up to $5,000 in adoption means and corporations. Interestingly, it phases out between the taxable income levels of $50,000 and $100,000 for both individuals and couples. In other words, not $1 of the adoption credit, the $2 billion of tax cuts that form the basis for that tax relief, will go to anybody making more than $100,000. Indeed, again, it is aimed at helping people in this country, middle-income categories, to be able to expedite the adoption of children, to provide children with a good start in life.

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of the benefits of those pro-growth tax reductions and tax cuts go to the benefit of average working families in this country because, as we unleash the benefits of some of these growth-oriented tax cuts, what will it produce? It will produce more jobs, better paying jobs. As companies expand and grow, we believe more people will provide more opportunities for Americans. Remember this, too: Madam President, a great number of the people who benefit from capital gains tax cuts are families who are selling the family home, who are selling other capital assets, who own or are part of pension programs that invest in stocks and corporations and ultimately realize capital gains.

Moreover—and I think it is important to note—this bill does not have simply an up side for those in these wealthy categories or for corporations, because we are also closing a substantial number of tax loopholes. In fact, the closing of those loopholes largely offsets the tax advantages that we unleash for corporations and upper-income individuals under this bill.

In short, we are paying for most of the benefits derived by those individuals by the closing of these loopholes. In short, once again, this tax cut bill is designed to aid families in the middle class above all other families in this country.

For those reasons, I intend to come to the floor again as may be necessary to keep reminding our colleagues exactly who the beneficiaries of this tax cut are. It is simply, as you analyze the data as to where the tax cuts go and how specifically the tax cuts have been developed, you realize once again that the claims that our tax cut is designed to help so-called wealthy people simply miss the point. It is a tax bill designed to help middle-class families to address a problem that has been growing in this country for the last 40 years, the problem of the Federal Government getting too big, consuming too many resources, making it much more difficult for average families to make ends meet. By balancing the budget and thereby bringing down interest rates, by giving families tax cuts, we can try to help alleviate the middle class squeeze. That is what we are trying to accomplish in no small measure with this legislation.

At this time, I yield the floor.

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. Who yields time to the Senator from Iowa?

Mr. ABRAHAM. I yield to the Senator from Iowa such time as he may need off the bill.

The PRESIDING OFFICER. The Senator from Iowa?

Mr. GRASSLEY. Madam President, first of all, I thank the Senator from Michigan for an outstanding review of all of the various profamily, pro-growth tax cuts in this bill. This tax bill is a memorial to the proposition that we believe taxpayers' money comes to the Treasury for legitimate Government purposes, and the expenditure for those purposes and not one more penny should come from the pockets of taxpayers. When we give this tax cut this year, we are just giving people back money that was ruthlessly taken from them in the last Congress by the President's budget.

We give it back in the way of helping middle-class families who pay the bulk of the taxes in this country. We do it in a way that says that the foundation of our society is families and that we want to encourage the family as an institution. That is why three-quarters of the tax cuts in this bill go to families, primarily through the $500 per child tax credit. That is a tax credit that is off the bottom line of taxes otherwise owed to the Federal Treasury.

Whereas, the Senator from Michigan gave a very good explanation of what is in the tax provision, I want to speak about our efforts to balance the budget, our efforts to reduce the role of the Government in the U.S. economy by reducing the size of the budget, by reducing the percentage of the budget to the gross national product over time, meaning a lessening of the amount of money that is run through the inefficient operation of the Federal budget, because we believe that the free market, the segment of the economy out there that comes from the private sector, the nonpublic part of our budget, is the most efficient distributor of goods and services, where the jobs are created, where we have efficiency within our economy.

Getting to a balanced budget sets a very, very good starting point for the reduction of interest rates. And it is projected that interest rates will go down 1.5 to 2 percent if we pass this year a budget that will balance by the year 2002. And we are gradually and responsibly reducing expenditures to get to that point that interest rates will go down. In fact, we started to reduce Government expenditures with a rescissions bill of $14 billion for fiscal year 1995.

By reducing interest rates, we are setting the stage, then, for growing the economy, for creating jobs and expanding, as we must be. There is so much of the job creation which comes from the private sector and the small businesses in the private sector that private interests going down, it is really going to encourage small businesses to create more jobs. They are the engine. Small businesses is the engine that drives our economy.

Getting to this point has been about a 10-month process. Remember, just 12 months ago there was a Republican program called the contract that had 10 features in it that was in a sense a national program. When normally we have 435 different races for Congress and campaigns for Congress, the Republican Party had one national campaign. And the reason why that national campaign was to deliver a balanced budget. Twelve months ago we may not have foreseen a Republican victory the size that it was. we may not have foreseen the people's response to the program, but that program was called for a balanced budget.

We took control of both Houses of Congress in January for the first time in 40 years. In a sense, when we took control in January we transformed our New Year's resolutions with the American people. We said that we are going to put to this bloated Government on a diet. Then for the last 10 months, we have been following a regime to achieve our resolution.

What happened in the Senate on Wednesday, Thursday, and Friday of this week, as far as delivering upon one of the major promises of the last campaign—to balance the budget, to reduce taxes, and to reduce taxes that are paid for by middle-income families. If you count off that 10 months of work. Everything that the people have been expecting since they voted 12 months ago for a new Congress is coming to an end on Thursday, Friday, and Saturday.

What decides whether or not we are successful is if we have 50 votes to pass this reconciliation bill. We Republicans then have been following a regime to achieve our resolution that we started on last January.

The other side of the aisle, meaning my Democratic friends, have been carping with neither shame nor credibility. They have no credible alternative. Oh, the President said in June, after 6 months of finally waking up to what the people decided in the last election, that he was for a balanced budget, not in 7 years as the Republicans planned but in 10 years. But when the Congressional Budget Office, the nonpartisan Congressional Budget Office, looks at the President's program to balance a budget in 10 years, they do not find a budget balance in 10 years. They still find $200 billion deficits as far as you can see into the future.

That is no different than the President's program of 1993, which he claims has reduced deficits more than in any other 3-year period than any other President ever had. But the point is the President's program of 1993 still saw beyond the year 1997 $200 billion deficits as far as the eye can see. Two years later, in June of 1995, the President says he is for a balanced budget by 2005. But when you score it the same way we score our budgets, it is still the same old story—unbalanced budgets as far as you can see into the future.

Maybe I should not say the other side has no alternative, because the President did say the budget ought to be balanced. He did not send up a program to do it. He just said that is something that he is for. But in fact, he was only for a balanced budget. Then later on he said, well, maybe it can be done in 9 years. Then I believe it was just last week, or near to now, he said he could actually do that in 9 years, which is what the program is. That it ought to be done in 7 years and can be done in 7 years.
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But for the most part, all we have heard from the opposition is naysayers. This diet that we Republicans want to put on, the Federal bureaucracy on the other side has been saying no, no, no, naysayers. It is kind of like those little voices that you hear in your head when each of us say that we ought to go on a diet, or we are going to go on a diet. That little voice on our head says, "I cannot do this. I cannot do this." That little voice says, "Let us wait until mañana." Or it says, "I do not feel like doing anything today, do it tomorrow. Maybe tomorrow I will start. I will start my diet." Then you hear those little voices with millions of excuses why you cannot go on a diet.

The Republican program is putting the Federal bureaucracy and Federal programs on a diet. It is being downsized. That is the essence of the reconciliation bill before us. The other side, without shame or credibility, are naysayers to this process.

Madam President, sometimes it is hard to tune out those little voices, not listen to those little voices in our head who say, "I cannot do this." or, "I will do it tomorrow," or any of those other million excuses that we hear. Tune out those little voices.

So that is why I speak to my colleagues, particularly my colleagues on the other side of the aisle, because this is a very important debate about turning our corner. We grind on, no longer business as usual when it comes to the fiscal policy of the Federal Government because business as usual has been for 30 years, do not be concerned about a balanced budget. Or maybe I can say to you, the last 10 years, be concerned about a balanced budget, but not really doing anything about it. That is business as usual.

The people in the last election sent a clear signal that they no longer want business as usual in Washington. And the reconciliation bill up for debate on Wednesday, Thursday, and Friday for 20 hours of debate in this body, and that's the essence to final passage, is our statement of no longer business as usual, that we are going to deliver on the promises of the last election. For once, Congress is going to perform according to the rhetoric of the last campaign. Our performance will be commensurate with what we said in the last election. And the essence of that is our Government programs and our bureaucracy must go on a diet.

And so during this debate then, just tune out those little voices that say, "I can't do this. I can't go on a diet." Because we will. We must. And we sense the responsibility not only because it philosophically comes with what we feel Government must do, but it is also a behavioral change that comes from the large voice of the electorate that spoke in the last election.

This very important debate can be said in one word: future. F-u-t-u-r-e. This budget plans for the future; this budget provides for the future; and by so doing gives our children and our grandchildren a future, the sort of future that we have a responsibility to leave them. It is not a responsibility that we judge our own. It is a responsibility that we have inherited from past generations of Americans who have given my generation and younger generations the opportunity to live in a better future than our ancestors had and the generation that preceded it.

That would not be possible. Madam President, without providing a balanced budget and the secure future that it allows. In effect, it is a necessary forerunner to a guaranteed future as we know it and better for our younger generations.

This budget provides a positive vision for our country's future. A future in which the provisions of this budget that will help increase productivity, lower interest rates, create more jobs and, most importantly, lessen the tax burden we are placing on today's children. Let us also add the results of fiscal policy. We talk about doing economic good. We talk about a secure future in materialistic terms. But this is not just a debate about material betterment. It is not a debate about abstract fiscal policy or economic issues. This is more a moral issue than anything else.

The Republican Party simply believes it is not right for our generation to live high on the hog and to pass the bills on to the next generation of young people. We are saying that finally Congress realizes that is just not right. That is what we said in the last election. We did not know when we said it that people would respond positively to it. But the voters did respond positively to it by the biggest shakeup in Congress since the 1930 election. That 1930 election turned things around politically so much in Congress and Washington. That there has not been a change from that direction until now.

Now, whether there was a whole new political environment ushered in by the election in 1994. I do not know for sure. I suppose the 1995 and 1998 elections will answer that question for me. But I do know this, that we got the message of the last election. We are responding to it. And we are passing a budget that is balanced based upon the fact that it is immoral for us to go in the hole, to deficit spend and not care who pays the bill while we live good and live well.

While we are worried about what the 1996 election or the 1998 election might mean for securing a long-term political change in Washington, DC, we have the responsibility to do what the voters asked us to do in the last election. So this budget signals that we believe Americans know how to spend their hard-earned dollars better than bureaucrats as we decrease the size of Government as a proportion of the gross national product. The number of Government employees. As we reduce and eliminate deficits by the year 2002. We show our faith in the American people by giving back to them $224 billion of their hard-earned tax dollars for them to decide how to spend for their future because we believe it will be more efficiently spent by them than by Government.

Finally, this budget ensures that the future of our seniors and the baby boomers who are some of today's spending is secure because we preserve Medicare in this budget and we ensure that it does not go bankrupt. Republicans have offered a comprehensive vision of the future. We have kept the promise of the last election. If we pass this resolution in the next 2 days, we have kept our New Year's resolution to the voters to put Government on a diet. We have not listened to those little voices in the minds who say, "I can't go on this diet. I cannot do this today or tomorrow." We have listened to the loud voice of the electorate.

Now, incredibly, I have heard the President claim that the Republican balanced budget would mortgage our future for the last 30 years because it was 1965—not quite 30 years, 26 years—since we have had a balanced budget. He did not say that out of ignorance because the President is a very intelligent person. He knows really why he said it. He would like to keep it. It seems to me that it could be part of a program to muddy the waters.

It is clear to the people what is going on up here on the Hill because this budget, this reconciliation bill before us, does not mortgage the future. The failed policies of the big spenders have already done that. We Republicans, with this balanced budget resolution, are successfully ridding ourselves of the deficit, the shadow of the deficit is on our future, so that we can have a bright future for our young people.

Unfortunately, the Democratic side offers nothing for the future. It seems the White House is happy to have a growing deficit that continues to mortgage our future. The White House, by not cooperating with Congress to balance the budget, is sending a clear message that they want in essence to take out a second mortgage to fund increased spending instead of doing the responsible thing of balancing the budget.

The White House policy will have our children and grandchildren continuing to pay not only the first mortgage but the second mortgage.

I guess, Mr. President, the essence is that the other side of the aisle has no vision. They have no vision for the American people, working families more of the same. They do not even want to sit down at the table with us to negotiate. Right after our summer recess in August, the President was invited to the Hill—not to the Hill. wherever the President
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wants to sit down with Republican leadership to talk compromise, work out our differences. The President then would have been in a position to control the table for the whole world to see. Evidently, he was not ready to do that. No response.

October 1 comes, the end of the fiscal year. We have to move forward. We moved the time ahead to November the 13th, but we could not wait any longer to fulfill the constitutional responsibilities that the Congress has to provide a budget, and implicit in our Constitutional responsibilities, because we have had more balanced budgets in peacetime than we have deficits throughout the history of our country.

Just last Thursday, the Speaker of the House and the Senate majority leader offered the President to sit down and talk. No response. So we move forward. I think this can be resolved. But it cannot be resolved by the other side having no program and at the same time pointing fingers and criticizing what the majority is doing. More of these same policies are going to bankrupt Medicare.

This bill before us solves that problem as the trustees, the Democrats and the Republicans, asked us to do on April 2. Not the President's proposal, it is going to provide for more out-of-control spending, with $200 billion deficits that will double our children's futures because that is what the President's 10-year balanced budget program—eventually he did not give us specifics—would provide. That is not my determination.

That is the determination of the nonpartisan Congressional Budget Office. And you know in this proposal it is going to continue to give us more taxes, more taxes, and more taxes. And if there are not more taxes this day, because the President may not be proposing to change tax policy—he did it with the biggest tax increase in the history of the country in 1993—for the young people of America it is going to mean into the next century tax increases and penalties because of irresponsible spending today.

So I think it is clear which New Year's resolution the American people want us to keep. It is the one of promising a future for our young people, a future for our country, a future for the world, as this engine of the United States, this economic engine of the United States, drives the rest of the world.

We have that opportunity to fulfill that promise for our future generations by adopting this resolution and to avoid being influenced by the carpeting from the other side of the aisle and from the White House that has programs to reach the goals that we do.

I yield the floor.

Mr. EXON addressed the Chair. The PRESIDING OFFICER. Mr. KYL.
The Senator from Nebraska.

Mr. EXON. Mr. President, I am pleased to yield 5 minutes to the Senator from Arkansas and, following that 5 minutes, to the Senator from Alabama from our time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, we have been on this bill 6 hours—let us see, I believe a little over 6 hours, 30 minutes. 6 hours. 30 minutes, and we have yet to vote. We only have 20 hours on the entire bill. And my question is this: This fall, what is anybody on the other side of the aisle so proud of? Why do you not want to let us offer the amendments and let you defend it?

That is all we want. If you are so proud of that tax cut, let us offer an amendment to make that tax cut refundable for the people who really need it. You call it a middle-class tax cut. That does not even stand the giggle test. A family with four children, making $20,000 a year, probably pays no income tax. And they do not get the $500 per child tax credit. They get nothing. The $500 credit is only available if you pay $500 in income tax.

Contrast that situation with this: a married couple with one child and they pay, we will say, $500 in taxes. Under the Republican budget, they will get that $500 back through the child tax credit. But if you happen to have a house full of kids, your dependent exemptions will probably result in you paying no income taxes, so you will not be eligible for the same credit wealthier families get. That is a middle-class tax cut? We all know now that 49.5 percent of the taxpayers will get less than $30,000 a year. What do they get out of this middle-class tax cut? They get a tax increase. 50 percent of the people in this country are going to wind up paying more.

Now, I will never forget in 1981 when Ronald Reagan came to town on the promise he was going to balance the budget, and I was hot for him. I am one of three Senators in the U.S. Senate—I want to tell the country—who voted for every one of President Reagan's 10-year balanced budget programs—though in 1983 and got a $700 million tax cut. I voted the way FRITZ HOLLINGS, BILL SPROUSE, and I voted the way you and I voted. I considered it one of the worst votes I ever made in my life. It gets all the better and it makes our country richer. It is the most responsible vote I ever made in my life.
the 1993 reconciliation bill which has already led to significant reductions in our annual deficits. But as with any operation, it is true that there is a right and wrong way to pursue the same goal. Themes and patterns emerge. Priorities and process matter, and it appears that on balance, the priorities in the package before us are seriously misguided.

What our colleagues on the other side are attempting is to place a vastly disproportionate share of the pain which will inevitably result from cuts of this magnitude on those least able to absorb it—working poor, the elderly, students. There is a bitter flavor that this process produces, and you do not have to bite off and chew on its details to taste its bitterness. Its basic ingredients were listed in the blue-print the Senate passed several months ago, but as they have been mixed together and as they have simmered in the context of this reconciliation package, they have become dramatically more bitter. The way we are treating those who have already benefited greatly in this society, and to punish those who are simply trying to get by or to realize a share of the American dream.

I have several major concerns surrounding this legislation, but the most disturbing are the cuts in Medicare and Medicaid. The plan is to cut Medicare growth by $720 billion over 7 years. In addition, by slowing the growth of spending from 10 percent a year to about 6.4 percent, it mandates a major restructuring of the program to supposedly give Medicare enrollees a wide range of options to join private health plans. I am concerned that instead of options, however, senior citizens will instead be faced with fewer alternatives, and will be forced into certain plans because they have no choice. The total savings claimed is $86 billion in savings would rescue the Medicare Program, but we are considering a bill which cuts it by $270 billion. The proposed $270 billion of savings is vastly more than it is needed to provide solvency of the program. Therefore, we need honest answers as to why we are attempting to write into law a $270 billion reduction.

The direction we are going will ultimately cause senior citizens to be charged more for health care while receiving less in Medicare, all the while financing a tax break for those in the upper income brackets.

A great portion of the savings in Medicare would result by raising the part B premium. The premiums that our senior citizens pay would rise from the $46.10 per month to more than $90 by the Year 2002. I have reservations and misgivings with regard to any Medicare reform that threatens the access to, and quality of, health care for senior citizens. Senior citizens would cut hospital services, home health care services, extended care services, hospice care, physicians services, outpatient hospital services, diagnostic tests, and other important services to our senior citizens.

In addition to reduction in services, the following immediate burdens would be placed on our senior citizens: For Fiscal Year 1996, the monthly premium would rise to $34. Participants in the part B program would be required to pay the first $150 of expenses out-of-pocket rather than the current $100 deductible. This would rise by $10 annually through the year 2002. All these in combination with the proposal to raise the eligibility age to 67 leads me to believe that seniors are being singled out to bear the brunt of budget cuts.

We all realize that the Medicare Program cannot continue functioning in definitively as it is now, but the cure is certainly not the Republican plan.

Not only do these proposals cut Medicare, but Medicaid is being reduced by $187 billion over the next 7 years. For the past 30 years, the Medicaid Program has been one of our health and long-term care safety net. The Republican proposal is to repeal Medicaid, slash its Federal funding over the next 7 years by 20 percent, and to turn remaining Federal funds over to the States in the form of a block grant. According to the American Health Care Association, in 1993, 43 percent of the cost of Medicaid payments was born by the States. Under the block grant proposal, by 2002, the States would be faced with an increase of 13 percent in just 7 short years. In a State like Alabama, which is habitually faced with budget proration, the effects of such additional burdens will be huge and devastating.

The National Association of Counties strongly opposes the block granting of Medicaid and the loss of a Federal guarantee to benefits. In a letter sent to my office yesterday, its executive director, Larry E. Naake, wrote, “We do not believe that states will find enough budgetary efficiencies without reducing eligibility... Individuals will continue to use the services that we have historically funded with Federal assistance.” That is why we have always supported the intergovernmental nature of the Medicaid program and the assurance that there is some minimum level of coverage guaranteed to eligible individuals, regardless of the state in which they reside.

The Democratic plan would reform Medicaid, it would retrain the rate of growth in Federal Medicaid spending in a responsible manner, not slash spending so much that huge cutbacks in eligibility, benefits, and payments to providers are inevitable. It would maintain a Federal fiscal partnership with the States for health and long-term care, not break the commitment to assist States and localities in financing care for vulnerable Americans.

These proposed cuts in Medicare and Medicaid funding would also have a devastating impact on hospitals and health care providers. Those in rural areas will take the brunt of $270 billion Medicare reductions. Alabama would get $14.5 billion less in Federal Medicaid assistance over the next 7 years. Such a drastic cut will have a profound effect on the ability of health care providers to meet the ever-increasing needs of the community and will also increase costs for those with private insurance plans. On the other hand, the right kinds of decisions could set the course for restructuring these programs in ways that will enable providers to deliver quality care more efficiently.

These extreme cuts to Medicare also threaten health care for millions of people of all ages living in rural America. Medicare spending in rural communities is $57.8 billion over the next 7 years—a 21-percent reduction by 2002. Since rural hospitals rely on Medicare for a significant proportion of their revenue, they will be particularly hard hit. Some will be forced to close altogether. In rural areas are few and far between. A hospital closing affects all rural residents in the vicinity, not just seniors on Medicare. Under the GOP plan, rural Americans will be forced to drive further to the nearest hospital, putting lives at risk.

As an alternative to closing, rural hospitals could turn to local residents to pay more for services or to pay higher taxes to subsidize their hospitals. Such taxpayers in rural America will be forced to pay more in order to protect access to health care as well as the quality of their services. Seniors in rural areas already have a limited choice of doctors and the $57.8 billion will result in fewer doctors accepting Medicare patients or doctors charging seniors more.

Also with regard to rural America and agriculture, there are several provisions which have potential hidden damage to these savings. The Reserve Program, for example, does not continue in the years beyond 2002. CBO anticipates that in those years, the program would actually be more expensive under this legislation than under current law. In addition, the removal of the requirement to purchase crop insurance will expose additional farmers to losses from poor weather, floods, and other natural disasters. In the past, Congress has responded to such events with supplemental appropriations for disaster relief. The removal of the crop insurance requirement provides budget savings for reconciliation but undermines a key element of last year’s crop insurance reforms, which were intended to end the temptation for Congress to pass costly disaster assistance bills. If our past experience is any guide, the end result will be even higher Federal spending.

I am also deeply dismayed over the $10.8 billion cuts in student loans, most of which will come out of students’ and parents’ pockets through higher interest rates. Each school day 1 will be required to pay a 0.85 percent fee on the amount of Federal loans made for students attending the school. This would
undoubtedly be passed on to the students in some form. It would cap the direct lending program at 20 percent of student loan volume. Rather than borrow money, this change would only produce paper savings as a result of new scoring rules adopted by the major

Mr. President, in this Nation, we have prided ourselves on the quality and accessibility of our system of higher education. Today, through student loans, Pell grants, work-study, and other programs, virtually every person who wants to attend college is able to do so. We have made the correct decision that economic circumstances should not prevent a bright young mind from being able to obtain a college degree if that is what they want to pursue. Why on Earth would we want to retreat from that commitment by making higher education less accessible to the academically qualified students? The bottom line is this: This proposal would cut off the vast majority of families who depend on student loans to pay tuition, slashing student loans will mean the disappearance of public financial aid.

Finally, Mr. President. I want to discuss my concerns over the changes to the earned income tax credit, which former President Reagan once described this way: "The EITC is the best anti-poverty, the best pro-family, the best job-creation measure to come out of Congress." Republicans in the Senate as well have supported the EITC for many years.

The plan before us dramatically increases taxes on the working poor by scaling back the EITC that so many Republicans have strongly supported in the past. The plan increases taxes by $43 billion over the next 7 years. This means an immediate $281 average tax increase on 17 million low-income American taxpayers. By the year 2005, 21 percent of all families currently eligible for the EITC would no longer be eligible. While its supporters praise hard work and self-reliance, their plan will make life more difficult for millions working in demanding, low-paying jobs.

In 1993, when the EITC was expanded, the Treasury Department estimated that approximately 374,700 Alabama families would qualify for a financial break under the plan. Actually, almost 388,000 families ultimately qualified under the EITC, a total of 22 percent of the entire returns filed. If this plan is adopted, these hundreds of thousands across the country will see this benefit evaporate. Approximately 17 million low-income working Americans will see an immediate tax increase averaging $471 per year by 2005. Treasury Secretary Robert Rubin has stated: "Low-income working families will suffer if the Senate Finance Committee's cut to the earned income tax credit is enacted. It is fundamentally unsound to raise income taxes on America's working families while high-income taxpayers are receiving the benefits of a tax cut."

As I stated before, this reconciliation package has mispredicted its effects, unfair, and its assumptions dubious. In its current form, it will and should be vetoed. We should and will be forced to start over after the veto. It would be to our benefit and the benefit of the American people to return this legislative bitter pill back to its container now and come up with a plan that is equitable and that gets the job done the right way.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to take a moment from our time, if I might, to thank both my friend from Alabama and my friend from Arkansas, who preceded the Senator from Alabama, for excellent remarks.

The Senator from Alabama is the former chief justice of that State. I have served on the highly distinguished Senator from Arkansas since 1971 when we both were elected and began service to our States as Governors. They are extremely talented and dedicated people. I want to commend for their excellent comments to try and recognize the serious problems with this budget bill that I addressed at some length at the beginning of the morning, about 10:30 this morning.

To all I want to say that while I am disappointed that we have not had a single vote yet, I advise all that some progress is being made, and I suspect that in the possibly not too distant future we may have some kind of an announcement by the majority leader and the minority leader, or the chairman of the Budget Committee, Senator DOMENICI, who is on the floor, and we can maybe move more progressively ahead and stop the talking and start the voting.

I thank the Chair.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Mexico yield time?

Mr. DOMENICI. Yes, are we just open-ended on time?

The PRESIDING OFFICER. The time is off the resolution, so the Senator can yield time.

Mr. DOMENICI. Mr. President, how much time does the Senator want?

Mr. INHOFE. Three minutes.

Mr. DOMENICI. I yield 3 minutes to the junior Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator for yielding. I wanted to ask a question of the distinguished Senator from Arkansas when he was very eloquently expressing his position. He was unable to yield time to me.

What I was going to ask him is, I heard him state several times on the floor of this body the tax reductions that took place under the Reagan administration. There is a fact that has to be stated at this time, every time someone talks about that, and that is the total revenues for marginal rates in 1980 amounted to $244 billion; in 1990, from the marginal rates that had been doubled, the total tax amounted to $466 billion. In other words, we almost doubled the revenue during that 10-year period, and what happened during that period, as was pointed out by the Senator from Arkansas, is that we had the largest single tax increase during that period of time. In other words, we increased revenue by reducing taxes, and that has gotten lost in this debate somehow.

Then another observation I had after listening to the Senator from Arkansas was that those same individuals who are fighting the tax reduction that we are proposing in this resolution are the same ones that supported the largest tax increase in the history of America, as it was characterized by not a conservative Republican, JIM INHOFE, but by the chairman of the Senate Finance Committee in 1993: The Clinton tax increase was the largest single tax increase in the history of America or the history of public finance.

Who are the ones who voted for that? Those individuals who voted for that tax increase were the big spenders as ranked by the National Taxpayers Union; the National Tax Limitation Committee, and all of the other organizations that ranked big spenders in Congress.

So you had the big spenders who were for a tax increase at that time. All we are trying to do is say, "Mr. President, you made a mistake back in 1993 by passing a big tax increase. We want to repeal some of that tax increase."

So the same individuals that are opposing our reduction in taxes now, to give some of the taxes back to individuals in America and the others who were supporting a major tax increase.

The last thing I want to mention is that those individuals who in 1993 supported the huge tax increases, a very high percentage of them are not around to vote today because those who came up for reelection during the 1994 election, when that was the major issue in their campaign, were defeated. We have shown that with charts on the floor many times before.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the pending ROCKEFELLER motion and the amendment thereto be laid aside in the status quo and that I may be recognized to offer an amendment,
The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2950

(Purpose: To provide for beneficiary incentive programs)

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

The PRESIDING OFFICER. The clerk will report the following amendment.

The Senator from Michigan [Mr. ABRAHAM] proposes an amendment numbered 2950.

At the end of chapter 6 of title VII, insert the following:

SEC. 15652. PREVENTION AND PUNISHMENT OF FRAUD AND ABUSE.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on entities engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128B of the Social Security Act, or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128A, or section 1128D of the Social Security Act, or who have otherwise engaged in fraud and abuse against the Medicare program for which there is a sanction provided under law. The program shall encourage individuals to submit to the Secretary information on violations of such Code.

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information under the program established under paragraph (1) which serves as the basis for the collection by the Secretary of the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program.

The PRESIDING OFFICER. The time is divided equally in that case.

Mr. DOMENICI. Thereafter, the time is divided equally.

The PRESIDING OFFICER. The time is divided equally.

Mr. DOMENICI. That is a different way of saying what I said.

Mr. FORD. Mr. President, the question is, What happens if the Democrats just take 10 minutes? They lose half of 50 minutes, which is 25 minutes?

The PRESIDING OFFICER. The Senator from Kentucky is correct.

Mr. FORD. So we are caught in the dilemma here now that if the Republicans take a full hour and we do not want to use their time, we could save that for an amendment we would like. But the rules are the rules, and I understand.

Mr. DOMENICI. Maybe I ought to clarify it.

I think I expressed it my way but I would rather express it this way: It has been the rule since we had reconciliation on the floor in the Senate that whatever amount of time is used on an amendment by both sides is charged equally to both sides.

Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I said to that the distinguished Senator yesterday. We were discussing it. We are not changing a thing here. The shoe is on both sides. Sometimes it works the other way. It has worked both ways in the times I have managed the bills.

It will come out all right in the end. You will have your amendments, from what I can tell. We can use more time this way.

Mr. EXON. If I might just add some editorial comment here. The problem is that we have that at 9 o'clock this morning I was in the first meeting. We have been meeting and talking and advising and cajoling now going on almost 12 hours.

The point I make is that I think it is time we start voting. I simply say that the delaying tactics thus far are just cutting down the time that I think we would like to use on this side of the aisle on several very, very important amendments.

I am not saying that the amendment being offered by the Senator from Michigan is not an important one. It
It is difficult to explain to Medicare beneficiaries why dramatic changes in the program are necessary to keep it solvent. Even if a small portion of these same individuals have firsthand experience with waste and fraud in the system.

Indeed, Mr. President, in my own State we recently had an incident where a Congressman had a constituent come to him with an overcharging of something in the vicinity of $400,000. That was made in error. Nevertheless, it has been a very significant example.

Those kind of circumstances make at least our constituents who are part of the Medicare Program frustrated. Patients are angry, and especially concerned when they hear about changes we are making in the program. They do not want to see us just address the growth issues or just the solvency issues. They also want us to address the problems they see every day with fraud, waste, and abuse in the system.

That, in my judgment, has to be addressed in our bill. That is why I offered this amendment.

If our efforts at Medicare reform are to succeed we must demonstrate our seriousness about ending these abuses. I believe enlisting the aid of Medicare beneficiaries, showing our resolve to combat the problem can prove to be a valuable asset in exposing and eliminating waste and fraud from the system.

Just to clarify, Mr. President, my amendment authorizes the Secretary of HHS to within 3 months establish two separate programs, one which would basically be called a beneficiary incentive program designed to allow seniors to report fraud, waste and so on, and if the fraud is significant, allow the Secretary to provide a financial reward to the individual who reports it.

The second program, also designed to allow Medicare beneficiaries to benefit from ideas for improving the program, would provide Medicare beneficiaries awards for providing us with recommendations specifically to the Secretary of HHS for improvements to the Medicare Program by way of promoting greater efficiency. Once again, if the savings are significant, the Secretary of HHS may provide a financial award to the individual whose recommendations was submitted.

Mr. President, we are addressing the growth of Medicare and its expense in many different ways in this legislation. I think a key component in the long-term control of those costs has to be ferreting out this abuse and waste.

I believe this amendment, as part of a package of similar reform, can make a significant impact in reducing those kinds of costs that stem from either inefficiencies in the program or fraud or mismanagement in the program.

I am pleased to offer this amendment tonight and I urge my colleagues to support the amendment.

Mr. EXON. Mr. President, I yield 10 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, all day I have listened attentively to both sides of this debate. Increasingly, I have grown deeply saddened because I see the polarization that is taking place between the two sides of the issue. I tried to reflect on the profound impact this bill will have on people, specifically, the 32 million people in the State of California.

In a sense, it is ironic that this bill is called a ‘reconciliation’ bill, for in reality it is far different than in Washington-speak, it is far from a reconciliation that we have here on the floor today.

If one just looks at the size of the Medicaid and Medicare cuts, one cannot help but be staggered by what its impact will likely be. Overall, the $450 billion cut in Medicaid and Medicare, would affect my State of California to the tune of $34 billion in losses during the next 7 years. That breaks down as $38 billion in Medicare cuts and $18 billion in Medicaid cuts. Those cuts will have an enormous impact on the people of California.

Let me give you an example of this bill’s harsh consequences. In California, 15 percent of the current Medicare recipients are also receiving Medicaid. That is 440,000 of the poorest seniors in the State of California. They need Medicaid to meet their Medicare premiums and copayments. Premiums are being doubled and, under the bill, they will not have the assistance of Medicaid.

Without Medicaid to assist these seniors meet their payments, many will lose their benefits and be placed at higher risk.

Further, for people suffering with HIV/AIDS, Medicaid is the most important program in the Nation. With these Medicaid cuts, what happens? It puts added stress on the public hospital, the county hospitals in the State.

So let’s turn to the great teaching hospitals in my State. The University of California system is a great system, probably the best in the world, with five great, major teaching hospitals. They are projected to lose $444 million over the next 7 years.

Now let’s turn to the great teaching hospitals in my State. The University of California system is a great system, probably the best in the world, with five great, major teaching hospitals. They are projected to lose $444 million over the next 7 years.

In a letter from the university system, they inform me that, for the first time in history, the University of California’s teaching hospitals will go into deficit. Great teaching hospitals going into deficit.

Public hospitals not being able to keep up.

Medicaid cuts that will prevent the poorest in our Nation from being able to use Medicare.

I really had to ask myself the question—is it really necessary to do it this way? This is where the bill becomes, I
For a State that has a growing poor community, more dependent on Medicaid and Medicare, that is the site of 40 percent of all of the foreign born, that has more illegal immigrants in it than all the other States combined, and has probably the largest number of needy people.

We recently considered welfare reform on the Senate floor. I voted for welfare reform, yet welfare reform is a $7 billion cut to California—no question—by any independent analyses. I voted for it because I felt there was a redeeming value in making the necessary changes and moving off chronic dependency. Yet, can I vote for this budget bill and show up back in California when I know the reason the cuts are so deep is simply to give a tax cut? Who benefits? My husband is a merchant banker. He deals in this kind of financial area. He would love to have a capital gains cut. He pays major income taxes. They went up in 1993, just like 275,000 other families over the $13 million taxpayers in the State of California.

But does he want to get a capital gains cut under these conditions? Anybody can call him and he will say no. It is morally wrong. It is not right to do it this way, that is the gut-level problem that I have with this bill that so saddens me.

The Republican Party has been known as the party that is most concerned about the national debt. True, we have a national debt of $4.9 trillion, which has developed, largely, over the past 25 years. But this budget bill will add to the deficit over its 7 years. Under this bill, the Nation's debt will increase by about $670 billion over the next 7 years—about $245 billion more than if no tax cut is enacted. This is not fiscally responsible action.

Further, I recently learned that June O'Neill of the Budget Office reports that, if off-budget items, such as Social Security, where not incorporated into the deficit calculation, the budget would show a $105 billion deficit. I wonder if the Republican leadership's plan, not the balanced budget they claim. Now is not the time for an excessive, and misdirected, tax cut.

The current deficit is $160 billion and that is too high and needs to be eliminated. But the deficit has been as high as $290 billion only a few years ago. True, the deficit picks up in the out-years of this decade. And true, Medicaid and Medicare are clearly responsible for it and need to be changed.

I will support changes in these programs, like an age of eligibility change. I will support means testing of premiums, not because I want to, but because I believe it has to be done. But to take the cuts this way, for the purpose of being able to rationalize a tax cut directing billions to the investment banker in the country. It is absolutely wrong. It is morally wrong.

And to go back to California and tell senior citizens, some of whom, in my State are eating dog food, and using Medicaid to pay their premiums, is something I cannot accept. The lower you are on the economic ladder the more difficult it is.

I am sure I have exceeded my time. I apologize. I got a little wound up. But I think it suffices to say that I do not know how anyone can vote for this bill and return to their people and say, "You are not going to be hurt by it." I know I cannot.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President. I want to thank my friend and colleague from the State of California for a very excellent statement, and, as usual, she puts it into perspective so we can all understand it. I think the personal remark that she made with regard to her husband should set the tone of understanding that I think is very lacking on the reconciliation document that we have been addressing and that I addressed along similar lines this morning.

Mr. President. I would simply like to say that, subject to their recognition by the Chair, I yield 10 minutes. First, to the Senator from Nebraska, Senator KERREY, and followed by that 10 minutes to the Senator from Arkansas, Senator PRYOR.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. KERREY. I thank the Chair.

Mr. President, several Members, Republicans and Democrats, have come to the floor and have decided to use the bipartisan Entitlement Commission—actually established by President Clinton last year—as either the basis for supporting the reconciliation agreement or the basis for opposing it. My opposition I must say is reluctant. I would love to be able to join with Senator GREGG, Senator SIMPSON, and others who participated in this effort and understand that the severity of the long-term problems with entitlements is not just Medicare and Medicaid, and other entitlements, but the big one, Social Security. The long-term problem is not something that we can afford to put off. Every year that we wait the problem gets worse.

All of us who look at the situation of retirement understand the sorrow that sooner you begin to plan the less you have to put away.

So those that say we will wait until 1997 to deal with Social Security are not doing beneficiaries any favor. The longer we wait the problem is, and the more severe the adjustments we have to make. And we should recognize that when you are dealing with retirement or with health care, there is a requirement to save money and accumulate reserves, as there is with our trust funds. You have to do it over a prolonged period of time.

Mr. President, the reconciliation agreement does not solve that long-
term problem. The appropriated accounts this year are about 26 percent of the interest budget at the end of the 7-year period. We are seeing a decrease in the appropriated accounts—a continuation. I mean it is the most dramatic chart that we have in the entitlement report. I commend it to colleagues who are interested in it, because when you get to the back and see what Senator DANFORTH, I, and Senator SIMPSON recommended you can see that you are dealing with real tough choices.

So, in expecting to make tough choices, I am not objection to saying that I will cast a vote for something that might be unpopular. I am not going to criticize the Republicans, for example, for choosing to increase the eligibility age. I think it has to be increased. But what we observe is a long-term problem. Again, when you say long-term problem the presumption is that we can wait a long time before we deal with it. You cannot cause the long-term issue to the more serious the issue becomes.

Mr. President, I want Members to understand that there are facts here in the Entitlement Commission report, as well as recommendations in the Entitlement Commission, that I believe need to be considered. I regret the President did not take those recommendations and make it a part of his budget. We would be in a different shape right now, if, in fact, the observations of the recommendations of the Entitlement Commission were accepted by the administration. But they were not. But there is still bipartisan support for action, and a willingness to risk political careers using facts and using the truth, and hoping the American people trust that we have to make change.

But, Mr. President, the goal for us in this exercise cannot just be to balance the budget because, if all we do is balance the budget, we have other problems that will still need to be addressed, and, a second, the second one is the growing cost of entitlements as a percent of our Federal budget. With all the rhetoric on both sides of the issue, the amount of money that the Congress extracts from the U.S. economy has remained relatively constant over the last 50 years. It went up during World War II, and it went up during the Vietnam war, but it remained roughly 19 percent of GDP. It is unlikely that is going to change. It is likely that is going to remain the same even with the proposal to reduce taxes that is in this piece of legislation. It really does not make a dent in that. You are still going to be pulling about 19 percent of GDP. That means the more that we allocate for mandated programs the less we have; not just for defense but for nondefense programs as well. It is a very severe restriction in our ability to build roads, our ability to educate our people, to do training, and to do things that I think Republicans and Democrats can agree need to occur.

So not only do we need to balance the budget but we need to interrupt this trend where America is moving in a direction which our Federal Government is moving in—a direction of becoming an ATM machine. Again, time is not on our side. You may say, "Oh, my gosh, I do not want to increase the eligibility age because that will make me unpopular. I do not want to deal with Social Security because it is too controversial." But we have to.

We have obligations on the table right now that we cannot meet. We can meet them over the next 6 years. We are not going to be able to meet them long term.

The flaw in the Republican proposal, in my opinion, comes from the need to satisfy a relatively small number of people that campaigned on a promise to reduce taxes. It is the tax cut that makes it imperative to get more over the short term and less over the long term. That is why I think this thing that we have, that the American people should not suffer under the illusion that is there an absence of bipartisan willingness to look at the future, and say, "We are going to change our laws so as to change that future." Not only should we be moving toward the balanced budget, but, second, we need to get consensus that we are going to cap all entitlement programs at a fixed percent of our budget—64 percent this year. I would be thrilled to get an agreement on 70 percent instead of the 74 percent that is going to be in the year 2002.

Third, Mr. President, I have strong objections to this proposal because instead of building a new safety net for a changed economy. which I think we need, we are saying as businesses are downsized they become more productive, and more competitive. But as they do it dictates that we examine our safety net, and build a different one. I think on the top of the list, if you are trying to rebuild a safety net, is to change the way we establish eligibility. We are saying we are not going to control the cost of entitlements. here is the proposal to fix it—if the Republicans had said we now come to the table in an understanding that, as well as the market working right now to control the cost of entitlements, there are some individuals that are not going to be able to purchase it. That is the basis for Republicans supporting Medicare.

We understand that after 65, a lot of people cannot afford to pay the bills because health care gets more expensive. Well, if it is true for 75-year-old people, it is also true for 25-year-old people in the work force. We ought not just be changing Medicare to save money. We ought to reform our health care system so that every single American knows with certainty they are going to be covered.

If the Republican proposal did those things, at a minimum, then I would be standing here as a Democrat supporting it. I would love to be able to get to that point. I know there are many people on the other side of the aisle very uncomfortable with the tax cuts, very uncomfortable in particular with the Joint Tax Committee that has disclosed to Americans that every single person with a family income of $30,000 or under is going to have a tax increase, and that is very uncomfortable about that and would prefer to have it changed. I know they understand that the entitlements are a problem, that we have to do more. not less.
if we expect to have the resources to invest in our future. It would be foolish of us to base our argument on the fact that we have some basis to produce a bipartisan reconciliation bill that we could send on to the President hope-fully for his signature.

Unfortunately, that does not appear to be the direction we are heading. Un-fortunately, we appear to be heading in a direction where we are going to sort of rigidly hold on, have a minimum amount of debate, limit the number of amendments offered, pass legislation for the short term and hope the people do the long-term problem in place: that we have con-structed a safety net that is not ade-quate for the kind of market economy we face today and unfortunately will have left our children, rather than blessed in the future, still cursed by an insufficient amount of investment.

The PRESIDING OFFICER. The Sen-a- tor's time has expired.

The President from Kansas. Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

I am just going to speak a very few moments on a subject that is and has been very near and dear to my heart during my entire period, you might say, in the field of public life. It relates to nursing home standards, Mr. Presi-dent.

The legislation that we are consider-ing tonight in this Chamber—I do not know how many thousands of pages, about 2,000, I think—includes what we might think of as just about every-thing: that nothing was forgotten, nothing was left out, nothing was omitted from the budget reconciliation bill that we are considering this Wednesday evening in the Senate. But there is something very critical left out of the budget reconciliation bill brought to us by our friends from the other side of the aisle. What was left out, what is notably absent is any Fed-eral national nursing home standards.

Mr. President, only this week, in Time magazine, I see a remarkable article entitled "Back to the Dark Ages," which predicts what is going to happen in the American nursing home to some 2 million residents if we totally do away with Federal standards.

Mr. President, it was in 1987 when the late John Heinz, the Senator from Pennsylvania, the former Senator from Maine, Senator Mitchell, and many of us joined on this side of the aisle with our friends on the other side of the aisle to enact for the first time Federal standards for nursing homes. If I might, Mr. President, I ask unan-imous consent to place in the RECORD this article from Time magazine.

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

BACK TO THE DARK AGES
(By Margaret Carlson)

Anyone who has been the hue and cry of the opposition during the end of the hospital's days, when the government, in the early morning hours, collected all the patients from the hospital and placed them in a communal hospital and then thrown into a communal vessel, has had the chance to fish through in the morning. And the patient's hospitals are documented by the National Academy of Sciences in 1886.

The next year Congress passed legislation to address decades of abuse of the elderly by profit-seeking hospital owners. But in the blink of an eye these days, a carefully built construct of regulations can be blown away without so much as a formal hearing. As the former Senator from Rhode Island, voted to eliminate all Federal standards in nursing homes.

Republicans say the failures of the 1987 reform legislation were passed, $2 billion was saved by 269 nurs-ing homes from fewer emergency hospitaliza-tions, less malnutrition, a 30% decrease in the use of catheters and a 25% reduction in the use of restraints. Says Sarah Burger of the National Citizens Coalition for Nursing Home Reform: "It was the failure of state regulations simply because they could. Indeed, the rollback, warns.

Weaken federal enforcement, we will be sent back to the dark days of substandard nursing homes. With millions of elderly at risk."

Republicans may have entered the slap-happy phase of their revolution, killing regul-a-tions simply because they can. Indeed, the nursing-home industry has not even asked for regulatory relief, in part because it would allow unscrupulous operators to flourish and bring shame on all of them. But Speaker Gingrich is hurting along, fearlessly about sending Mom and Dad back to the future. to the day of nursing home care that lack nurses and feel nothing like home.

Mr. PRYOR. I shall read only one sentence. "Indeed, the nursing home industry has not even asked for regu-latory relief, in part because it would allow unscrupulous operators to flourish and bring shame on all of them." Mr. President, that is going to be ex-actly the status of the residents who are living today in the American nurs-ing home.

First, I would like, if I might, to show our colleagues the projected growth in the nursing home popu-lation. Today, we have about 2 million American nursing home residents. By the year 2003, just a few years from now, we are going to see 4.3 million American citizens residing in American nursing homes. In fact, most of the people who reach the age of 65 are going to be in this category. They are going to be living in a nursing home.

I only see the issue. Mr. President, of privacy in receiving mail and com-munications? What about the confiden-tiality of medical records? What about the protection from unwarranted transfer to another nursing home or discharge in the middle of the night from the particular nursing home the resident finds himself or herself in?

Mr. President, another chart indicates something that I think is ex-ceptionally dramatic. The chart indicates the real need for us to retain at least the minimum of Federal standards for nursing homes. Look at the characteristics of the nursing home pa-tient or resident today: 77 percent need help in dressing; 63 percent need help in toileting; 91 percent need help in bath-ing; 66 percent have a mental disorder. And there is one more figure that did not make it to the chart, Mr. Presi-dent.

If the 2 million nursing home residents in this country could be surveyed or polled on how they felt about removing all Federal nursing home standards, it does not take a great amount of imagination to know what the results would be. Of course, in overwhelming numbers, un-unanimously. That is what we would vote to continue these present Federal standards.

For example, the choice of a physi-cian, the care and the treatment in choosing a physician, the freedom from chemical and physical restraints, is this something that our colleagues on the other side of the aisle want to move? Just last week in the Senate Fi-nance Committee on a vote of 10 to 10, every Democrat voted for retention of these Federal standards, every Repub-lican except one, Senator CHAFEE of Rhode Island, voted to eliminate all Federal standards in nursing homes.

What about the issue of the respect, of privacy in receiving mail and com-munications? What about the confiden-tiality of medical records? What about the protection from unwarranted transfer to another nursing home or discharge in the middle of the night from the particular nursing home the resident finds himself or herself in?

Mr. President, another chart indicates something that I think is ex-ceptionally dramatic. The chart indicates the real need for us to retain at least the minimum of Federal standards for nursing homes. Look at the characteristics of the nursing home pa-tient or resident today: 77 percent need help in dressing; 63 percent need help in toileting; 91 percent need help in bath-ing; 66 percent have a mental disorder. And there is one more figure that did not make it to the chart, Mr. Presi-dent.
I ask unanimous consent that this letter all of us received in the Senate be printed in the RECORD, as follows:

DEAR SENATOR DOLE. As providers of long-term care services, we are concerned that the current Finance Committee proposal to impose a block grant financing mechanism for Medicare fails to ensure that adequate resources will be available to meet the needs of our nation's elderly, disabled, and infirm. We fear that the proposed annual increases in federal Medicaid funding for state programs will be insufficient to meet the quality of care needed by residents of long-term care facilities and subsequently reduce access to services. Furthermore, the failure to meet the resources needs anticipated in future years for these services will negate the many advances made in this area as a result of the OBRA 87 nursing home reform provisions.

The OBRA 87 reforms represent the most significant effort to date to redress the concerns of many nursing home residents and their families. Without adequate financial resources, this quality of care is not possible, and we urge you to support the retention of the Nursing Home Reform Act and its standards.

Sincerely,

American Health Care Association (AHCA)
American Association of Homes and Services for the Aging (AAHA)
Catholic Health Association
HermanCLS
Clinton Village Nursing Home, Oakland, California
Qualicare Nursing Home, Detroit, MI
Westmoreland Manor, Greensburg, PA
Services Employees International Union (SEIU)
American Federation of State, County, and Municipal Employees (AFSCME)
United Auto Workers (UAW)

STATEMENT OF STEWART BAINUM, JR., SUBMITTED TO THE SENATE SPECIAL COMMITTEE ON AGING, OCTOBER 25, 1995.

As the Chairman and Chief Executive Officer of Manor Care, Inc., I want to express our strong support for retention of the Nursing Home Reform Act of 1987 (OBRA 87). Manor Care owns and operates 170 skilled nursing facilities in 28 states, and provides care to over 26,000 residents.

The OBRA 87 reforms represent the most comprehensive revision of nursing home regulations since the inception of the Medicare and Medicaid programs in the sixties. As I read the report, it was over 1000 pages long, and addressed critical areas of care, such as resident assessment and care planning, nurse aide training and testing, resident rights, nurse staffing ratios, and enforcement. The final product reflected the agreement reached among 50 national organizations, representing consumers, seniors, providers, and state regulators. It was a painstaking process that worked. In fact, OBRA might very well be the most comprehensive, successful and far-reaching legislative achievement in the health care legislation.

Manor Care strongly supported OBRA 87 because the legislation offered a valuable means of promoting and protecting the quality of life for one of the most vulnerable populations. The standards that OBRA affords nursing home residents an environment which is safe and ensures their physical and mental well-being. OBRA 87 has been widely successful and has led to significant improvements in the care delivered to our residents. As a national company, we are supportive of the uniformity and consistency these standards provide across the states.

OBRA created a system of care delivery to help guarantee the dignity and respect of institutionalized seniors. Do not undo the valuable work that has been done. We ask that Congress support retention of the Nursing Home Reform Act and its standards. Stated most simply, it is the right thing to do.

Mr. Pryor. Mr. President, I think some of these particular standards which have been on the books now even for quite a decade are already paying dividends. For example, if we would just look at an additional chart to see what is happening in improved resident outcomes, the maintenance of the ADL function. What it takes to daily exist, we see the pre-OBRA functional status in the purple, we see the red, the post-OBRA functional status showing a dramatic increase in the very basic quality of life because of these nursing home standards.

We look, Mr. President, and see what is happening in improved care for the nursing home resident. "Decreas in Problem Areas.

Physical restraints are going down; dehydration is going down; indwelling urinary catheters. 29 percent, going down.

From a specific case, Mr. President, are hard-won gains that we are afraid we will lose. We are afraid we will lose in one fell swoop simply because this particular budget reconciliation does not contain Federal financing to protect the American nursing home resident.

Finally, Mr. President, let me ask, how would we vote in this body—when this issue comes before the Senate—how would we vote if we knew that Monday our mother or our father or our son or our daughter or even ourselves were about to enter a nursing home and become yet another statistic. How would we vote, Mr. President?

I ask my colleagues to strongly consider the opportunity, when it becomes available, to retain these basic nursing home standards and to continue them as a part of the law of this land and the basic protections that must not take away from these 2 million, and going to soon be 4 million, American citizens residing in our nursing homes.

Mr. President, I yield the floor.

Mr. Pryor. Mr. President. It is a privilege to rise on this occasion to speak on an aspect of OBRA 87 which has been widely recognized by Members of the Senate, and which I would like to call to attention to several Members who have been actively engaged in trying to frustrate these problems so that we might address them in ways such as the amendment I am presenting here tonight.

First, I would like to acknowledge the efforts of Senator Kyl and Senator McCain—Senator McCain in particular, who has worked in this area a long time, has separate legislation, I know on this topic; and his leadership on this issue has helped to bring it to our attention.

More recently, I would also like to acknowledge and then quote from a report, an ongoing, actual effort by Senator Cohen, who is also chairman of our Senate Special Committee on Aging, an investigatory staff report which he conducted and which was released July 7, 1994. It has identified countless examples of Medicare fraud and abuse, the kind of abuse and fraud that, hopefully, this amendment which I have presented tonight can address.

Without going into all the details at this time—although I may from time to time during the debate mention specific cases—let me just focus on an area that was just touched on by Senator Akaka: namely, the area of nursing homes.

The investigative report revealed a considerable number of cases involving direct targeting of nursing home patients in which both the industries that supply products and services to the homes and the owners and administrators of the homes are involved in fraudulent and abusive practices.

Nursing home owners have been convicted of charging personal luxury items like swimming pools to Medicaid cost reports. HCFA, the HHS, inspector general's office, and the minority committee staff are continuing to look into such nursing homes... as was the case at the time this report was revealed.

Let me cite two specific cases.

A Minnesota speech therapist submitted false claims to Medicare for services provided to nursing home residents. The therapist received Medicaid payment for speech therapy he never actually performed—and the investigation revealed that he had been paid for services "rendered" to several ABRA 87 residents. He was also observed using flash cards with a blind resident and then billing for reimbursement.

Another case...
Mr. President, we can talk about the different problems in the nursing home issue, one many of us are concerned about. One of the reasons this amendment, which I have offered tonight is because it is in some of the problems that do go on in nursing homes.

I will cite other examples in other contexts in which Medicare fraud is running up the costs of Medicare. costs that are already unacceptably high. The amendment that I am offering, as well as some of the other items included in the reconciliation bill before us.

At this time, Mr. President, I would like to yield 10 minutes of our remaining time to the Senator from Ohio.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER, The Senator from Ohio.

DEWINE. Let me thank my colleague from Michigan for yielding time and say that I rise in strong support of the Abraham amendment.

My friend from Michigan said a moment ago that he has many examples of constituents who have had firsthand experiences. My guess is that there is not a Member of this body who could not say the same thing. As I travel the State of Ohio, I talk to people about the opportunities that are out there, and what we can do, the steps that we will have to take to preserve and protect and strengthen Medicare. And people will always talk to me about the fraud, talk to me about abuse. Many times I talk to the State. And they have specific examples. I suspect that every single Member of this body could say the same thing.

I have had my staff go through some of the letters that we have received. Here are just a few of them, people who have written to us, people who I have talked to personally, who have described specific incidents that they believe constitute fraud.

I think my colleague from Michigan is right on point, because I think one of the things that we have to do is enlist the public's help in this effort to deal with the fraud and abuse. It has been my experience, Mr. President, that the American people are generally right. And in this particular case, the American people, the people who are on Medicare, the children of people who are on Medicare, and I believe the people who would have been involved in maybe paying the bills or overseeing some of the finances, they are not wrong. They are right. There is fraud. There is abuse. There are things that need to be done.

So I would like to congratulate my colleague from Michigan and give him my full support for this particular amendment.

Mr. President, the reconciliation bill that we are debating tonight and will be debating tomorrow, probably also into Friday, has great historic significance. It has many different parts to it, as has already been pointed out tonight.

One of the provisions in this bill that my colleague from Michigan mentioned several hours ago when he was on the floor I would also like to briefly comment about, and that has to do with the tax credit, the $500 tax credit for those couples, those families, who have children. There has been a lot of talk about what this might do to help stimulate the economy, a lot of talk about what impact this has on this particular bill.

But I think the main reason, Mr. President, for having this provision, and why so many of us on this floor tonight insist that it be in the bill, is because it is a question of fairness, it is a question of equity.

If we look at the tax burden that our Government has placed on working men and women and on their families, what we find is that that burden has really impacted how people live their lives today. Let me give you a statistic. If you took a family with four children in 1985 and compared them with a family of four children in 1995, what you find when you strip away inflation is that the tax burden on that family has gone up in real dollars 220 percent. So each one of us has constituents back in our home States who are working second jobs or third jobs or where the spouse has taken a second job or maybe taken a first job, who would not do that but for the fact that this tax burden has been imposed on them.

And so you have one of the spouses working one job full-time just to pay the taxes, just to keep the family standard of living where they believe it should be and to help educate their children. That is the perverse impact that the Tax Code has had on families, and the fact that the Tax Code has not, over the years since 1960, for example, kept up in any way, shape or form with inflation.

What this $500 tax credit does is help to rectify that injustice and bring some equity to the tax system.

Mr. President, another major provision of this bill that we have in front of us has to do with welfare. I believe that this bill is an essential step toward creating jobs and opportunity for the American people, and I believe that the welfare provision goes a long way in doing that.

This particular provision encourages the culture of work instead of the culture of welfare. In the case of the welfare provision, again, there has been a lot of talk about dollars and cents, and those certainly are important. In the long run. I think this provision is going to save money, but that is really not the main reason it is in this bill. It is an important thing about this welfare provision, because in this bill we are changing the culture. In this bill, we are turning our back on the last 30 years where what we really have been doing in this society has been unintended—but what we really have been doing is keeping people alive. We have been feeding people, we have been keeping them on welfare.

I guess we have done a pretty good job in that respect. But what we really should be doing is what we are doing with this bill, and that is, moving from a system of welfare, whose goal is to maintain people, to a system of welfare whose goal is to help people realize the American dream, to help them get themselves off welfare so they can fully participate in the great American dream.

Let me briefly discuss, if I can. Mr. President, how this bill does this. This bill does, of course, it proposes radical change based on the principle that the only way to succeed in reforming welfare is to get welfare out of Washington, DC. We are only going to change welfare when we turn the money back to the local communities. Washington, DC, has demonstrated for decades that it cannot reform welfare.

The innovation that has occurred in the welfare area in the attempt to get people to work has not occurred over the last few years in Washington. Where you see the innovation is in the 50 States. The States have truly been the laboratories of democracy. And so what we have seen in the last few years is Governors and State legislators who have had to petition Washington, have had to come hat in hand to Washington and deal with some federal bureaucrat to ask permission to be bold and innovative and to try a new program back in their home State.

What we are saying with this bill is enough is enough, we trust the States. That is where the innovation has been that is where the changes are going to be made. Let us get the money out of Washington, get the power out of Washington.

Real change is only going to come. Mr. President, at the State level. And so I trust the local communities, to get the power and the money and the decisions out of Washington, DC.

It will take the States time to fix this broken system. I think we have to be very realistic about this. Welfare has become a federal issue, and it is not going to be fixed overnight. In fact, it will not get fixed at all if the power course stays here at the Federal level.

The welfare provisions contained in this bill will help accomplish this historic transfer of power away from
Washington. It will transfer welfare responsibility to the States in the form of block grants.

The bill would also establish a tough new uniform work requirement for welfare. Next year, under this legislation, to continue receiving block grant money, States will have to make sure that at least 50 percent of the people on welfare are working in return for the benefits that they receive.

I ask for 3 additional minutes.

Mr. ABRAHAM. Mr. President, I yield 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DeWine. Mr. President, that percentage will continue to rise every year. and by the year 2000 at least 50 percent of those receiving welfare will have to work.

The only long-term solution to welfare is work. This reconciliation bill recognizes this basic commonsense fact.

I am especially pleased by some of the improvements we were able to make during floor consideration of the bill. We established, when we were debating the welfare bill, a rainy-day fund to help cover economic emergencies. creating a grant fund of Federal money that will help tide States over in the event of a recession.

We also made it easier to track deadbeat parents. We know that we could reduce welfare costs if we could make sure that those deadbeat parents would just pay their child support. Years ago, I was a prosecutor in Greene County, Ohio, and I learned then firsthand how difficult it can be to track down these deadbeat parents. You get banking information about them on a yearly basis, you find out their assets, find out their location, just in time to discover they vanished once again.

The bill would also provide for this vital tracking information on a quarterly basis, once every 3 months, not once a year. It will be a big plus for our efforts to track down the deadbeats and, thus, reduce welfare costs and, perhaps most important of all, we will give States credit for helping people avoid falling into the welfare trap.

We have found that helping people before they get on welfare through job training, job search assistance, and similar measures is a cheaper and more effective way to help them than simply waiting for them to fall off the economic cliff and become full-fledged welfare clients.

In conclusion, Mr. President. I strongly support the idea that we have to make welfare recipients work, but we need to make sure that meeting the work requirements does not become an end in and of itself. The goal, after all, is to help people avoid getting caught in the welfare trap in the first place. This bill gives States credit toward the work requirements for the efforts they make to help people avoid welfare, but it will also help keep States focused on the real problem: Making sure fewer and fewer people need welfare in the first place.

With these changes and the underlying idea of promoting getting welfare out of Washington, the Senate welfare reform package is a major step toward breaking the cycle of welfare dependency once and for all.

Mr. ABRAHAM addressed the Chair.

Mr. THOMPSON. The Senate from North Dakota wish to go next?

Mr. DORGAN. How much time remains on each side?

The PRESIDING OFFICER. There are 26 minutes on the minority side and 30 minutes on the majority side.

Mr. DORGAN. I defer to the Senator from Tennessee.

Mr. THOMPSON. Mr. President, I think that the Senator from Michigan, also am strongly in support of his amendment. I think, as he says, eliminating fraud and abuse from the Medicare system certainly is not, in and of itself, going to cure the problem we are faced with. But it has to be part of the package and it represents doing something. I applaud his efforts in that regard. I also applaud the comments just made by the distinguished Senator from North Dakota and his comments about the welfare portion of the reconciliation package.

Mr. President, I speak from a little bit different perspective than many of those who have spoken on the reconciliation package. I am a new Member to this body. I have not run for elected office before. I ran for the U.S. Senate. I decided to run for this body because I felt—as I think a lot of other people feel—that our country is at a crossroads, that our children have come home to roost, and it is time to make some strong decisions and they are going to have to be made by people of courage and conviction. I felt that I could play a small part in making the difference, in helping make that happen.

It is all coming down now to these last few days, and that opportunity is going to be given to me, and it is going to be given to everybody in this body. Everything we have done in the last 10 days has led up to this time, has led up to this day of judgment. This is a day of judgment for ourselves as individuals. Some would say it is for our party, but it is more importantly for us as a body and us as a nation. I think that difficult choices have to be made. Whether we talk about welfare or those tax cuts, there are those on the one side and with the White House with regard to the need for tax cuts—the President having acknowledged that tax cuts are indeed needed.

So these are legitimate issues of debate. I have been looking forward to a discussion of those issues. We are in the midst of it now. I think the discussion tonight has been good. I must say that, throughout the day, it has not always reached a level that I would like to see reached in this Chamber. We have seen some mean-spiritedness and we have seen some calls to fear. We have seen appeals to envy and appeals to greed. One Member, today, suggested that those who espouse our philosophy should be ashamed of ourselves. Another Member today, on the other side, said that apparently the only elderly people we could have are those who live in Beverly Hills, which would come as a real shock to my mama in Franklin, TN. But that was said today.

It has been implied that those on the other side are the only ones who have any concern, any compassion because, indeed, they are basically two different philosophies in this Chamber, as we approach these issues and problems. One believes that the Government, by growing larger and spending more money, can solve these problems. In the face of all the evidence to the contrary. We, on the other hand, believe that Government should try to do things that Government can’t do, that Government can’t solve the problem.

But there are legitimate issues. There is a legitimate issue as to how far we should go with regard to Medicare. Should we apply a Band-Aid? Senator Dole was a Band-Aid skeptic; that perfectly well for short periods of time. But the question is whether or not we should apply Band-Aid or do something more serious for the future. Although, surely, there can be no debate that we indeed have a failed welfare system and that something must be done.

There is legitimate debate as to what extent we should keep centralized here, control of the welfare program. or to what extent we should give those responsibilities back, closer to where the problem is. Although, surely, there can be no debate that we indeed have a failed welfare system and that something must be done.

We can debate tax cuts. We can debate the effects of those tax cuts. But, apparently, we ever agree as to the proper lines and with the White House with regard to the need for tax cuts—the President having acknowledged that tax cuts are indeed needed.

So these are legitimate items of debate, and I have been looking forward to a discussion of those issues. We are in the midst of it now. I think the discussion tonight has been good. I must say that, throughout the day, it has not always reached a level that I would like to see reached in this Chamber. We have seen some mean-spiritedness and we have seen some calls to fear. We have seen appeals to envy and appeals to greed. One Member, today, suggested that those who espouse our philosophy should be ashamed of ourselves. Another Member today, on the other side, said that apparently the only elderly people we could have are those who live in Beverly Hills, which would come as a real shock to my mama in Franklin, TN. But that was said today.

It has been implied that those on the other side are the only ones who have any concern, any care, any compassion because, indeed, they are
the ones who are willing to send out more dollars from Washington to solve those problems, as they have solved them in times past.

Mr. President, it has come now to a time where we must put partisanship aside. We can have legitimate debate on legitimate issues. I think the time is we have when we should be attacking other people's motivations as we reach to solve these problems, because some of us must take note of the fact that some of the ones arguing and screaming so loudly about these children have been guilty of some time and have witnessed this legislation that has come out of this body and the other body, which has contributed to the problem over the last 40 years—much more than it has contributed to the solution. It has operated under false assumptions and false policies that must now be corrected. It is on our watch now—those who have been here a while. It is on our watch now—those who have been here a while. It is on our watch now—those who have been here a while. It is on our watch now—those who have been here a while. It is on our watch now—those who have been here a while.

It is on our watch now, and we have to do something about it. It has been going on here for the last 40 years—much more than it has contributed to the policy of neglect and one that has, in every respect, failed. It has operated under false assumptions and false policies that must now be corrected. It is on our watch now—those who have been here a while. It is on our watch now, and we have to do something about it. It has been going on here for the last 40 years.

What have we done for the working family? Those are the folks who put me where I am standing here today. Those are the folks that elected most of us in this body. We ought to be looking out for them. But have we been doing that? Do our actions belie the words "looking out for the working family"? We have seen income levels stagnate, and in looking out for the working family, we have seen among young working people, income levels decline in this country.

Among working people, we have seen greater and greater tax burdens laid upon them, up to 220 percent. The Senator from Ohio a minute ago was exactly right. The very people who benefit from this $500-per-child tax credit—are the very people who have been doing the working family. I can hear working folks across America saying, "Please don't help us out anymore. We can't stand it."

What is the solution to all of this? We have seen the President's first budget which gave $200 billion deficits as far as the eye could see. Nobody took it seriously, and it did not get one vote in this Chamber.

We saw the President's second so-called budget that created $245 billion out of thin air by changing some assumptions. Nobody is taking that seriously either. Apparently it did not get one vote in this Chamber.

In conclusion.

We meet every year. Practically, in other years we have had a tax bill in 1969, in 1971, 1976, 1978, 1980, 1981, 1982, 1984, 1986, 1990, 1993—major tax bills. That does not include the miscellaneous tax bills. And every time, we in this body decide who is deserving and who is not—passing judgment on our fellow citizens as to whose income and whose needs and whose earnings and whose dedication we agree on. We have to go around. Mr. President. But we are now taking the next step and get on with it.
order. I wish to allocate the time remaining with 8 minutes to the Senator from North Dakota, followed by 10 minutes to the Senator from Washington and then 5 minutes to the Senator from New Mexico. I yield myself 3 minutes at this time.

All day long, Mr. President, we have had speeches beating up on the President of the United States. I simply say that today the President announced that the year-end budget deficit was 180-some billions of dollars. That is the lowest deficit we have had for the longest time in the United States of America.

I simply say to those who have been in this body now not a full year, none of them can hardly take any credit for the deficit going down dramatically under the leadership of the President of the United States.

While we all tend to beat up on the President of the United States once in a while, I think it is well to note that under his direction, under his determination, and in the policies that he has fostered, he has put his political muscles where his mouth is, and the deficit has come down dramatically.

I simply say that the last time we had a deficit this low was way back in 1989 at $153 billion. The intervening years it has been $221 billion, $270 billion, $280 billion, $255 billion. $203 billion has been going on around here for the past 40 years.

I wonder how many people think that somebody would like to live elsewhere? Do you think that we have not progressed in this country in 40 years? Do you think Medicare does not matter to people? Do you think things are not better for a lot of Americans than they used to be? Do you think in this century the fact that we decided to provide electricity to the farms, that somehow that was not relevant? Created a Social Security system that did not matter? Marshaled the will and the strength to beat back the forces of fascism and Nazism? Survived the Depression? Marshal the will and the strength to beat back the forces of fascism and Nazism? Survived the Depression? Passed the Social Security Act? Passed the Civil Rights Act? Passed the Voting Rights Act? Passed the Medicare Act?

I am not saying that we have not progressed in this country in 40 years. Do you think that we have not progressed in this country in 40 years? Do you think that we have not progressed in this country in 40 years? Do you think that we have not progressed in this country in 40 years? Do you think that we have not progressed in this country in 40 years? Do you think that we have not progressed in this country in 40 years?

Let me put in a good word for what has been going on in this country for the past 40 years. Mr. President, I have listened in recent hours to discussions by people who talk about what has been going on around here for the past 40 years in some disappointing way. Let me put in a good word for what has been going on in this country for the past 40 years.

I simply say, Mr. President, that once again the President of the United States should be saluted for at least bringing the deficit down into the $160-billion range. I want to get that for the record.

While we all tend to beat up on the President of the United States today, this 1,950 pages contains substantial policy changes—Medicare especially. Medicare matters to a lot of senior citizens. We offered an amendment today about 8 hours ago. It is very simple. It does not take 10 staff people to explain it to anybody here. It is not rocket science. It is very simple. It says those who propose to reduce the amount needed for Medicare by $270 billion—that is, what the proposal is—$270 billion less than is needed is to fund Medicare in the next years, we say to those who want to do it, look, you also want to give a tax cut. We would like you to modify the tax cut and not provide tax relief to the upper income Americans, and use the savings from that limitation to reduce the hit on Medicare so that we are reducing Medicare by about the $89 billion that the President says are necessary to make it solvent.

Very simple. It does not take 8 hours to figure out what you will do about this. We do not need people sitting down with fingernail files and clip-pers and just ruminating about the world. Let me put in a good word for what has been going on in this country for the past 40 years.

I wonder how many people think that somebody would like to live elsewhere? Do you think that we have not progressed in this country in 40 years? Do you think Medicare does not matter to people? Do you think things are not better for a lot of Americans than they used to be? Do you think in this century the fact that we decided to provide electricity to the farms, that somehow that was not relevant? Created a Social Security system that did not matter? Marshaled the will and the strength to beat back the forces of fascism and Nazism? Survived the Depression? Passed the Social Security Act? Passed the Civil Rights Act? Passed the Voting Rights Act? Passed the Medicare Act?

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percent, of course—big tax cuts. I want somebody to come to the floor in the next day or so, just to tell me this change is wrong and tell me how it is wrong. You know it is right. Senator SPECTER knew it was right yesterday when he spoke. And you can do all the high-wire acts and you can do all the give and take, but the government want, build all the word castles in the sky forever, and it is not going to change the central facts.

Old folks are going to pay more and get less health care. They are going to pay more, and get less of it. Farmers get the short end of the stick. Middle-income families are told college education is not so important for your kids. And young kids are told education is not a high priority for you—whether it is Head Start and dozens of other programs.

So I just ask people around here, when are we going to vote on something we offered 8 hours ago? A simple product that have to have again. Everybody in here understands it and everybody here understands why we are not voting on it. We are going to have 40 or 50 votes, I suppose, on this bill before we are draining off all of this debate time on a noncontroversial issue. I understand why, but it is not right.

The rules provide 20 hours on this bill. We have limited time to deal with this. There’s generally affect people’s lives more than almost any measure in the last 30, 40 years. And we are told we just cannot vote on these issues up or down. We want to go talk about Medicare fraud.

I see Senators on the floor who have been working on this for a long time, and I commend them. I have worked on it. But I tell you, our constituents want to know much sooner than all of you. How this bill affects their lives in a real way than deal with this noncontroversial amendment, an amendment we should have accepted 2 hours ago. I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I commend my colleague from North Dakota for a brilliant statement. He has such a way with words, and I congratulate him for putting the issue in context.

President, at the outset, I want to make it clear that I am one Senator who believes major changes are critically needed if we are to bring the federal budget back under control. I also believe that major changes in our Tax Code are necessary to help generate new economic growth and to create new jobs.

I do not think any of us should fear change. Indeed, change is critically important if we are to avoid getting caught in a process that challenges the future holds for us, for our children, and for future generations. The right kinds of changes can help create a climate that will produce the new jobs and economic growth that all of us want to see. The right kind of changes can open up opportunity, and help make this an America that makes use of all of the talents of all of its people, which benefit the other actions of the Federal Government. The right kinds of changes can help create a climate that will help Americans provide for their families and give them what we have had—the opportunity to live better than our parents did.

There is some argument, but that change is needed. I strongly agree with the statement made in a letter written by the Competitiveness Policy Council on October 12 when the council issued its report entitled "Increasing the Payoff from Private Investment in the U.S. Economy:" The cover letter, talking about the report’s conclusions, stated: "many of the Federal laws and regulations that influence private investment decisions were developed before World War II, and are out of sync with current economic and financial market conditions." That is exactly right.

Another of the council’s recently issued major reports, entitled "Saving More and Investing Better—A Strategy for Securing Prosperity," makes it very clear why we must change Federal budget and tax policies, and other Federal policies. That report found, among other things, that:

More Americans are employed, yet they are working longer hours and for less pay:

Productivity growth has improved since 1990, yet growth has translated into higher compensation for workers: * public dis-saving has been reduced by 2 percent of GDP since 1982 through cuts in the Federal deficit. [yet] the net national savings rate continues to fall; * primarily due to the downward trend in household savings, as Americans currently consume 97 percent of their household income; * private investment is growing yet the stock of existing plant and equipment is flat; and * improvements in productivity growth and delivery of lower wage workers into instruction, the depreciating of the dollar and government support have helped American goods and services gain a greater share of world markets, yet the trade deficit is reaching historic highs.

The council set out three goals—goals that I believe make a great deal of sense—deal with these and other problems raised by its reports:

First, doubling productivity growth to at least 2 per cent per year;
Second, achieving 3 percent annual GDP growth in order to reemploy workers made redundant through productivity improvements; and
Third, eliminating our current account deficit, in order to reduce U.S. reliance on foreign capital, and helping ensure U.S. businesses can be sustained over the long run.

I think these are goals this Congress must pursue, both through the Tax Code through Federal spending decisions, and through the other actions of the Federal Government. One critical question the Senate should be asking is whether this reconciliation bill moves us toward these goals or not. After all, restoring Federal budget discipline is not just an accounting game. Changing Federal policies is not just about making the numbers line up. The reason we are going to deal with the deficit problems are not by the kind of changes are important, is what they will mean to the American people, to the kind of opportunities our children will enjoy, and to our collective future as a nation. Tragically, this reconciliation bill does not move us toward these goals. It does not pursue the right changes. It is contentious and controversial precisely because it is shortsighted. We currently enjoy solid economic growth and low unemployment. Yet Americans are increasingly anxious about the future.

More and more Americans worry about whether they will be restructured out of their jobs. Americans entering the workforce worry about whether there are enough good jobs out there for them. And many Americans increasingly worry about being priced out of the American dream.

Unfortunately, there is substantial cause for this anxiety and this worry. All too many Americans have been restructured into their jobs. Eighty percent of Americans are not seeing any real increase in their pay. Yet between 1989 and 1990:

The average price of a home increased from about $76,000 to almost $150,000, an increase of almost 100 percent.

The average price of a car went from about $7,000 to $16,000, an increase of over 125 percent, and the number of weeks an American had to work to pay for the average car increased from about 18 weeks to over 24 weeks, an increase of about one-third.

The cost of a year’s tuition at a publicly supported college increased from $635 to $1,454, an increase of almost 130 percent, and a year's tuition at a private college increased from an average of $3,498 to $8,772, an increase of 150 percent; and health care costs increased at close to or at double digit rates each year.

We have a responsibility to do what we can to help address the causes of that anxiety. We have a responsibility to help ensure that the opportunity to achieve the American dream is open to every American—and that the dream is not priced out of reach for many Americans. We have a responsibility to ensure that Government policies help, rather than hinder, Americans who want
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nothing more—and nothing less—than what we have all had: the opportunity to live better than our parents did.

We have to meet these responsibilities based on as complete an understanding as possible of the way our economy works now. and the way it is likely to work in the future, and not simply what it has worked in the past. We have to meet these responsibilities without falling into the trap of doing the tax and budgetary policy equivalents of fighting the last war, instead of preparing for the next one.

Yet, that seems to be exactly what this reconciliation bill is all about. It does not meet our responsibilities to our children and to our future. Its remedies are based on a foundation of myths, and a time that has long since passed, instead of the economic realities that the American people live every single day.

There is no question that our budgetary mythology and the trends are not sustainable. '—a very real crisis we face. If we do not address the critical budget problems facing this country. The chart accompanying that finding was headlined, "Current Trends Are Not Sustainable"—a very understated way of pointing to the very real crisis we face. If we do nothing in the year 2012, entitlement spending and the interest costs will consume every single dollar of Federal Revenue. If we do nothing, by 2030, just paying the interest on the national debt will take over $1 of every $10 our economy produces.

The Commission's reports are compelling evidence that we must act to protect the Federal Government's fiscal house in order. They make it clear that we cannot afford to act based on any political party's or interest group's budgetary mythology. They reinforced my conviction that an amendment to our Constitution is good public policy.

That same objective—a balanced budget, restoration of fiscal discipline—is the stated objective of the reconciliation bill we are now considering.

But what kind of message is being sent, what are the American people really being told, if the same bill that takes $893 billion out of the spending side of the budget over the next 7 years also takes $245 billion out of the revenue side of the budget? What kind of message is being sent if a bill that is supposed to lower deficits actually increases them by $93 billion over the next 7 years in order to help finance the tax cuts?

The reason greater fiscal discipline is important is that we owe more to our children than a legacy of debt. How is it consistent with giving ourselves a tax cut now, thereby creating more debt for them, to repay the fiscal house in order. And they are an even larger percentage—38 percent—of the $638 billion in deficits forecast for that period in the budget resolution we are now working under. That is why the tax cut provisions of this bill have such an impact on the deficit reduction objective that both Democrats and Republicans want to achieve.

A tax cut right now is inconsistent with achieving real deficit reduction. And it is important to keep in mind that, even if the Senate does not act on these tax proposals, we would not be choosing to move toward a balanced budget by increasing the burden on American taxpayers. Whether these tax proposals become law or not, Federal revenues are not growing faster than our economy. Federal taxes consumed 19 percent of the U.S. Gross Domestic Product in 1969. Now it is 1 percent less of GDP than Federal revenues accounted for a quarter of a century earlier, when the Federal Government last balanced its budget. back in 1969, by the way.

The rationale for tax cuts is that they will help promote savings, economic growth, and the creation of the kind of new, well-paying jobs Americans need. And it is true that $245 billion in tax cuts is large enough to provide a substantial opportunity for those kinds of changes to happen. When compared to Federal revenues that will total more than $1.1 trillion over the next 7 years, however, that figure shrinks dramatically. It amounts to a tax cut of only about 2.1 percent. And, according to the Joint Tax Committee, it amounts to a cut in average, effective tax rates for American taxpayers of only eight-tenths of 1 percent.

Moreover, even this tax reduction is illusory for many Americans. The reconciliation bill, to cite one example, creates a student loan interest tax credit, an idea I support. This tax credit puts approximately $1.5 billion in the hands of American taxpayers to help pay student loan expenses. However, the reconciliation bill also contains provisions designed to save $10.8 billion over that same 7-year period by making student loan debts more expensive. On a net basis, therefore, families with students who are likely to be worse off, not better off.

The bill also creates a $500 per child tax credit for families. But many EITC families won't see much net relief, because once the EITC cuts are fully phased in, they will lose, on average, $457 in annual tax relief they are now receiving. For many of them, therefore, the effect of the tax provisions in this bill is simply to move their tax benefits from one line of their tax returns to another line.

For the middle income Americans we will not receive much relief from the tax provisions in this reconciliation bill. Both the Joint Tax Committee and the Treasury Department agree that Americans with annual incomes of $30,000 or less, which is over half of all Americans, will see no net tax relief at all from this bill.

In the health care area, the bill calls for creating medical savings accounts, providing more favorable tax treatment for expenditures on private health insurance. Nothing more—and nothing less—than a tax break for health insurance. But many of these changes are likely to work in the future, and not simply what it has worked in the past.
The net effect of all of these cuts is to price college out of reach for many Americans. A study by two higher education economists—Michael McPherson of Stanford University and Morton Shapiro of the University of Southern California concluded that each $250 increase in the cost of college will result in a 1-percent drop in the number of low-income students enrolling in college.

And low-income students will not be the only students affected by these changes in student loans. Middle class American families with students in college or approaching college-age will also be affected—all too many people will be unable to meet the new, higher costs, which means that their children will have their opportunities diminished by this bill. Instead of expanded education futures for our children, but if we are simply moving money from the Federal balance sheet to the budgets of American families, we aren’t helping them at all. That kind of approach does not meet our responsibility to American families or to our children, and it does not meet our obligation to the future.

These kinds of changes may produce budget savings in the short run, but they are not in the long-term interests of our country: this is not the kind of legacy we want to leave our children. After all, our people are the most important asset our country has. If we are to compete successfully in the future, if we are to generate the kind of economic growth we need, and if we want expanded rather than diminished, opportunities for our children—and their children—we simply cannot skimp on educational investment in education.

We all know that education is one of the most important determinants of the amount our children will earn in their lifetimes. In this increasingly technological age, education is even more important. How, therefore, does it make budget sense, or any other kind of sense, to cut our investment in education, when one of the top purposes of this bill is to improve the lives of the young leaving our children, and to create a brighter future for our children.

The bill’s approach to health care is as shortsighted and misguided as its approach to education. Advocates of the bill’s Medicare and Medicaid provisions argue that the reconciliation bill does not “cut” either program: what is actually going on is simply a reduction in the rate of growth of these two programs. But in effect, double digit increases to a bit more than 4 percent annually. They also argue that action is required in order to keep the Medicare and Medicaid trust fund solvent.

Only thing is the narrow budget planners themselves, that argument is correct. If, however, the economic and health care realities behind those numbers are also considered, the argument collapses.

The truth is that this bill calls for reductions in Medicare of $270 billion, three times what is needed to protect the trust fund. And the truth is that the aggregate spending levels are not the only story, but only the beginning of the story. There are two factors driving up Medicare and Medicaid costs generally: demographic change, and cost inflation. The simple fact is that the number of older Americans is increasing far more rapidly than the population generally, and that the increases in the number of elderly Americans will accelerate even further early in the next century when the “baby boomers” begin to hit retirement age. This fact has profound implications for Medicare, and also for Medicaid—because spending for older Americans takes 70 cents of every dollar spent on that program. Both Medicare and Medicaid must increase substantially just to keep pace with this growing number of American using those programs.

Health care cost inflation is a perhaps even more important factor. Medicare and Medicaid inflation rates have been at double digit levels, or close to them, for a long time and it is true that we have to get that inflation under control. However, this bill has no real plan for reducing health care inflation. Instead, its impact will be to reduce access to health care and the care choices available to millions of Americans. Under this bill hospitals and other health care providers will see over $200 billion less in reimbursement for services provided to Medicare patients, which will likely drive some of them into bankruptcy, and cause others to reject Medicare patients. Medicare premiums will double, as will deductibles; the two-thirds of all nursing home patients insured under Medicaid will be thrown into jeopardy; and almost 9 million people, including almost 4½ million children, could be thrown off the Medicaid rolls.

Again, what seems to be happening is that costs are not being eliminated by making the delivery of health care cheaper and more cost-efficient, but by simply transferring costs from the Federal budget to the budgets of individual Americans. Most beneficiaries will not only see higher costs from the Medicare Program directly, but higher private insurance costs, as so-called Medigap insurance, which involves higher administrative costs and medical inefficiency than Medicare—becomes more expensive due to this bill. Medicaid recipients will also face higher costs—the average cost of a year in a nursing home is $38,000—for less health care. And every American will like see higher health insurance costs. As hospitals push costs formerly paid by Medicare and Medicaid over to privately insured patients. Lewin-VHI, an independent insurance research firm, found that if the $452 billion in Medicare and Medicaid cuts are force doctors and hospitals to raise their fees for private patients by at least $90 billion.

Under this bill, Americans will get $245 billion in tax cuts, but if even half of the $452 billion in Medicaid and Med- icaid reductions show up in the budgets of individual Americans, then Americans are not better off at all. They deserve more than budgetary shell games, they need real reform—but all this bill provides is the rhetoric of reform, instead of the reality. The only reality it will deliver is less care and higher costs for every American. It takes a meat ax approach to health care, and for a long time that a scalpel would do a better job.

I have focused a lot on the impact this reconciliation bill will have on all Americans, Mr. President, but I cannot conclude without expressing my outrage, my disgust, at how little help the poorest Americans get. The proponents of this bill say it reforms welfare, that it "reforms" health care for the poor, that it "reforms" the programs and that it, along with the appropriations bills that encompass the rest of the program advocated by the other side of the aisle reform the rest of the social safety net. But these reforms are even less real than the health care reforms. Instead, these proposals represent a shredding of the social safety net. This reconciliation bill walks away from the working poor. It walks away from the poor children who want to work. It walks away from poor children who want the opportunity to escape their poverty.

It walks away from opportunity, from inclusion, and from making use of all of the talents of all of our people. It walks away from the problems of our cities, and of economically distressed rural areas.

It calls for further reductions in welfare, even though welfare benefits per beneficiary have increased by 100 percent in the last 20 years. It fails to recognize the real problems involving child care, and access to jobs, and job training that have to be addressed in order to make real progress in reducing our welfare rolls, by bringing people into the workforce. It ignores the fact that two-thirds of welfare recipients are children. It divides us from one another, viewing the whole as a cost to be cut, instead of as an asset to be developed. I could go on, and on, and on.

Considering the overall impact of the bill, one has to ask the question: What do the supporters of this bill have against poor people? After all, Americans who make less than $20,000 get a tax increase, instead of a tax cut, under this bill. Americans who make less than $30,000 get no tax cut at all. And the richest 20 percent of American families have to bear half of the total cuts in Federal spending. This reconciliation bill is so unbalanced that the distributional impact is—should be a stunning embarrassment.

It is the long term that I believe must guide our deliberations. We must
deal with Federal budget problems, but our objective must be to deal with our budget problems in a way that enhances our country’s future, and our children’s future. A bill that undermines education, that simply transfers costs from the Federal Government’s balance sheet to the budgets of American families, and that needlessly jeopardizes, instead of reforming, our health care system, cannot end the anxiety so many Americans are experiencing.

Can making education more expensive that is already too expensive be in our long-term national interest? How can cutting taxes by $245 billion, at a time when we have $4.9 trillion in Federal debt outstanding, and at a time when we are experiencing nine-figure budget deficits every year, be in our long-term national interest? And how does lowering taxes for some Americans while pushing more health care costs, education costs, and so many other costs, on very American families help them better meet their own long-term objectives? Finally, how is walking away from the poor—and particularly poor children—consistent with the larger or own long-term interests or our own core values.

Mr. CHAFEE. All right. Now, I would just say this, that those premiums she is discussing today is up out there because they are not set forth a dollar amount, as the distinguished Senator knows. We stay at exactly the same percentage. And if health care costs should go down, then the premiums will go down. If health care costs go up, then the premiums go up. To blame that on the Republicans and on our Medicare program is just a charge that I believe is highly unfair.

Ms. MOSELEY-BRAUN. I would like to claim my time.

Mr. CHAFEE. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. ABRAHAM. Mr. President, just a point of clarification. I believe the Senator from Nebraska is not in the Chamber now, but he had previously sought and obtained consent for the Senator from New Mexico to proceed at this point.

Mr. CHAFEE. All right. Now, I would just say this, that those premiums she is discussing would go up out there because they are not set forth a dollar amount, as the distinguished Senator knows. We stay at exactly the same percentage. And if health care costs should go down, then the premiums will go down. If health care costs go up, then the premiums go up. To blame that on the Republicans and on our Medicare program is just a charge that I believe is highly unfair.

Ms. MOSELEY-BRAUN. But that does not make my statement in error, does it?

Mr. CHAFEE. If the premiums are going up—and who knows what the costs are going to be out there because they are not set forth a dollar amount, as the distinguished Senator knows. We stay at exactly the same percentage. And if health care costs should go down, then the premiums will go down. If health care costs go up, then the premiums go up. To blame that on the Republicans and on our Medicare program is just a charge that I believe is highly unfair.

Ms. MOSELEY-BRAUN. Objecting to the affluent testing? No. I would say to my colleagues that the point I have been trying to make in this statement today is that we are with this bill in all 20 instances robbing Peter to pay Paul. Taking from one pocket to put in another, and, therefore, the notion that we are just restraining, restoring, and saying the program becomes illusory because the overall impact of the changes we are suggested in this reconciliation bill.

There do have to be changes. That is the main import of my statement as well. There have to be changes in the way that this program works. Certainly, affluent testing is one. Some parts of the affluent testing proposed in the Finance Committee are laudable and will help the program overall. But the overall impact on the way we do this, creates the point that I will increase the cost on senior citizens and will double the costs in some instances.

Mr. CHAFEE. Let me just say this. As the Senator knows, we both worked together in the Finance Committee on the Medicare matters. To say that the Republicans are doubling the premiums on part B is an inaccurate statement. If I may say so to the Senator. We maintain the percentage that an individual gets under the part B premium at exactly the same amount that is there now. The same amount that was there under a Democratic administration and under us. It is 3.1 percent.

Now, if the Senator will show that the costs of the premiums are going up, that has nothing to do with Republicans being in charge. That is a fact of costs of health care. But to say to it is a Republican fault is a charge that I think is a very unfortunate one to make.

I say to the distinguished Senator from Illinois that what we have done on the Medicare Program is justified. Have there been some deductibles increased? Yes, there have. But the part B premium remains at exactly the same percentage exists now. And if the distinguished Senator from Illinois objected to testing, then she is on a different course than I think is a very unfortunate one to make.

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Ms. MOSELEY-BRAUN. I would like to reclaim my time and to read to the Senator some numbers.

Under this plan, increased premiums alone will cost every elderly couple an additional $2,800 over the next 7 years. By the year 2000, premiums will double to more than $1,100 per beneficiary per year. Upper income beneficiaries—

And this gets to the affluent testing that the Senator mentioned. It will get even more. For some of them, the premiums will triple.

It is documented. So maybe.

Mr. CHAFEE addressed the Chair.

Mr. DORGAN. Will the Senator yield to me?

Ms. MOSELEY-BRAUN. I yield.

The PRESIDING OFFICER. Mr. Senator?

The Senator from Rhode Island controls the time.

Mr. CHAFEE. It is my time. Mr. President. I believe I am on my time.

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Mr. CHAFEE. All right. Now, I would just say this, that those premiums she is discussing would go up out there because they are not set forth a dollar amount, as the distinguished Senator knows. We stay at exactly the same percentage. And if health care costs should go down, then the premiums will go down. If health care costs go up, then the premiums go up. To blame that on the Republicans and on our Medicare program is just a charge that I believe is highly unfair.

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Ms. MOSELEY-BRAUN. I would like to reclaim my time and to read to the Senator some numbers.

Under this plan, increased premiums alone will cost every elderly couple an additional $2,800 over the next 7 years. By the year 2000, premiums will double to more than $1,100 per
Mr. BINGAMAN. I would be glad to yield 30 seconds to the Senator from Illinois.

Mr. MOSELEY-BRAUN. I thank the Senator.

Again, to Senator CHAFEE, the Office of Management called. Part B here more than doubled. That is to be found on page 8 of the statement of policy. And I would like to provide that for the Senator. I did not misspeak. We may have a different interpretation, but the statement that I made was factual with regard to the impact on part B premiums. I yield the floor and I thank the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak for just a few minutes about the Republican tax plan. The plan which is before us. It is title XII of the bill which begins on page 1463 and runs through page 1949. In case some of my colleagues have not read all aspects of it, I have not either. But I do think I understand the main thrust of it. The main thrust of it is that it does place an additional burden on those who are least able to pay. In doing so, it provides tax breaks to those who are doing the best in our economy.

The Joint Committee on Taxation, which has been referred to many times here in this debate, has released some findings that I think all of us have to agree are accurate, and those findings are that people who earn $30,000 a year or less will be shouldering a heavier tax burden. We own that bill becomes law. The new data are the result of the effort and the proposal to reduce by $43 billion the earned-income tax credit.

Mr. President, this chart here, I think, makes the point about as well as anything could. We have here the people who have $10,000 of income or less. Their taxes will be expected by the year 2000 to rise 9.6 percent. In the case of people with $20,000 of income, it is 2 percent. People with $40,000 of income is a smaller percentage. But everyone in that entire range would see their taxes increased. At the same time, those above $30,000 would see a decrease.

Mr. President, what we have, which is a fairly remarkable result, in my opinion, is a bill that cuts Federal taxes, reduces Federal taxes by $245 billion and at the same time increases taxes on more than half of all Americans who pay tax.

Let me point to one other chart here which I think makes the point very dramatically.

The Senator from North Dakota earlier was saying that the bottom 50 percent of all taxpayers are the ones who are going to see their taxes go up. In my home State—and we have State-by-State breakdowns of this—in my home State of New Mexico, it is not the bottom 5 percent who are going to see their taxes increased; it is the bottom 70 percent. Because we are a low per capita income State, we have a substational burden on people who are in that income category that puts them at $30,000 or less. So 70 percent of the taxpayers in my State will in fact see their taxes rise under this bill according to the Joint Tax Committee.

What is most disturbing about this is that this is happening at a point in American history where the average American worker is having a tougher time making ends meet. They are seeing their wages, the real spending power of their wages decline. Families are increasingly finding themselves without adequate health care coverage or pension options. It is a time when the stock market is at new highs, when corporate profits have never been higher than they are at this time in our history.

In fact, talking about the stock market and corporate profits, there have been many times in the last month or so when I wished I owned some stock. And I own a little stock. And I am sure there are many working families in this country who look at the rise in the stock market and wish they had a piece of that pie. But the reality is that they do not.

What we are doing here is the rich are taking a bigger share of the Nation’s economic pie than ever before. We are proposing in this bill to reduce the burden on those who are relatively well off.

Some have recently argued that the $500 child tax credit is more than an adequate offset to those working poor who will be getting tax increases. This is simply not the case. Clearly, a family has to have substantial, though income on which to pay taxes for a $500 credit to make a difference. More than a third of the Nation’s children will not benefit at all or will only receive partial credit from this proposal. If we are serious about giving tax relief to the working poor, then the child tax credit should be refundable or offset against payroll taxes, not just against the income tax.

A working family in my State with two children and $15,000 adjusted gross income has no Federal tax liability and thus has no opportunity to receive any benefit from the child tax credit. This worker, however, has a real increase in tax burden by the reduction in EITC that helps the family keep working, not falling back into welfare programs. But this same worker has payroll taxes of $1,149. If the child tax credit were an offset against these taxes, then this might do some good.

Mr. President, this Senate has been here before—in fact, 14 years ago. In 1981, it was the passage of the Kemp-Roth bill which was a major cause of the deficit we are now struggling with. In 1983, 1985, and at other subsequent times, this Congress has quietly undone parts of Kemp-Roth, which cut taxes during a time when the Nation’s financial circumstances could not bear the pressure. But we have never recovered—and that is why the budget balancing process today is so terribly difficult. It is very unwise to attempt to cut the programs that we are cutting toward the noble cause of balancing the budget, and at the same time cut taxes for the wealthy. It was the wrong thing to do in 1981, and it is the wrong thing to do today.

Mr. President, if we are going to promise tax relief, it needs to be equitable. We must go back to the drawing board and reverse these EITC reductions.

What was the Republican tax plan, as it now reads, benefits the wealthy at the expense of the poor. We would be better off leaving the whole issue of taxes to another day when we can afford it, and when it can be done fairly.
Clinton try to put together some kind of a bipartisan commission or commit-tee of a group of Senators and House Members to see if we could not resolve this on a bipartisan basis.

There were no takers. There were no takers at that time. They simply said that was a liberal position. "There is no problem with Medicare and you Re-
publicans are simply trying to blow it out of proportion." Well, there is a problem. There is a problem that has to be fixed.

As I say very candidly, as we talk about taxes, that I, for one—I may be a minority of one—do not favor tax cuts at this time. I think that we should be balancing the budget, period, at this time. But I think we have to separate out the issue of the reformation of the Medicare fund itself.

I compare it to a situation of a home in Maine, by way of example. We are going into the winter season. We have a roof. It is to be heated. And there is frost on the walls. And the inside of the walls, not the outside. That is how cold it is. We have a home that is losing heat. We need to get heat into the home to keep people warm. The problem is several broken holes in the roof, and the windows are broken, and we have an inefficient furnace in the basement.

Now, there are one or two ways that we can keep warm in that house. We can try to buy more fuel. We do not have enough money, so we have to get a second or third job, assuming you can find a second or third job. And so we have to buy more fuel to put more fuel into the home to keep the frost from freezing us inside. That is one way of doing it. That way would be simply increase taxes. If you want the analogy to be made properly, we just have more taxes, an additional investment in the payroll tax, part A of the Medicare trust fund. So we know that we would have to get more fuel oil or get a second or third job to buy more fuel oil to put oil in that house.

Or we could make the house more energy efficient. We could fix the holes in the roof. We could fix the windows that are broken. We could put a new furnace that is efficient in the basement and conserve energy as opposed to allowing it to go out through the chimney and the holes in the roof and the windows.

The basically is, what the Republic-
ans have tried to do in terms of slowing down the growth of the Medi-
care fund as much to make it more effi-
cient, to stop growing at a rate of 10 percent or 6.3 or 6.5. Now, President Clinton, to his credit, admitted that we have a problem and he suggested that we slow the growth down to 7.5 percent.

Mr. President. I suggest that there is room for agreement between our two parties, between the President and the Senate and the House. And right now, unfortunately, we are in a stage where we are setting the posture for a poten-
tial agreement sometime down the line.

But let us not make any mistake about it, we still need to reform the Medicare system. Part A and part B have to be reformed if we are going to ever stop the growth rate of 10 percent a year, which cannot be sustained under anyone's calculations without a major tax increase. And no one on that side of the aisle is talking about a major tax increase.

I would like to come back to a sub-
ject matter which I think has been ad-
dressed earlier but is of great impor-
tance to me because it deals, not with Medicare, but Medicaid. One of the mistakes, I believe, that has been made in the bill as reported out of the commit-
tee is that we are suddenly waiving many of the standards and regulations that have been hard fought in the field of nursing homes.

One of the first bills that I intro-
duced back in 1973, in December 1973, was the Nursing Home Patients' Bill of Rights. That came in the wake of a tremendous investigative reports into absolutely intolerable conditions in nursing homes where patients were tied to their beds or wheelchairs, where they were medicated and overmedicated to the point where they were practically zombies, where a Senate aging committee called them warehouses for the dying.

As a result of the expose of the abuses that were taking place in the nursing home industry itself, we were able to, over a period of time, establish nursing home patients' rights. Many of them have been put into place by Exec-
utive order. Finally, under OBRA 87, the Omnibus Reconciliation Act of 1987, we finally were able to put into law specific regulations and standards about how these homes should be run and maintained.

We have put into all practical purposes, eliminated that under the bill. I hope that we can correct that. I believe that we can correct that, and we should cor-
rect it.

But tomorrow we are holding a hear-
ing in the Aging Committee in which we will again discuss the reasons why we need a continuation of the Federal standards and oversight and enforce-
ment of nursing homes.

Let me give you just a couple examples. By the way, this is not a new issue. Let me give you just a couple examples. By the way, this is not a new issue. Let me give you just a couple examples. By the way, this is not a new issue.

Now, I ask unanimous consent to have this material printed in the RECORD.

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

CONGRESSIONAL HEARINGS AND REPORTS LEADING UP TO THE ENACTMENT OF THE NURSING HOME REFORM ACT IN 1987

May 1986: Nursing home care: The unfin-
ished agenda—information paper.
May 21, 1986: Nursing home agenda: The
unfinished agenda. vol. 1.
Feb. 26, 1985: Nursing home care: Infor-
mation quality assurance.
July 1885: America's elderly at risk.
July 9, 1985: Health care cost containment:
Are America's aged protected?

CONGRESSIONAL RECORD — SENATE S 15667
May 5, 1984: Nursing homes and related long-term care services, part 1.

Nursing homes and related long-term care services, part 2.

For a listing of Congressional hearings and report on nursing home reform, see 1987 and/or for a listing of state and national reports on nursing home care. Please contact the National Citizens’ Coalition for Nursing Home Reform.

[From the Indianapolis Star, Oct. 10, 1995]

EXISTING PROTECTIONS

The Republican Congress has taken steps to ease the burdensome federal regulations of a large percentage of nursing homes, many of which are unnecessary and costly to individuals and businesses. But when it comes to abolishing nursing home regulations, which protect the health and safety of elderly citizens, some caution is in order.

Before repealing a law that has vastly improved conditions at nursing homes in Indiana and nationwide, lawmakers should study the sordid history that led to its enactment. The stiff fines that the state may levy against nursing home operators from abusing or neglecting the elderly.

As a result of the Nursing Home Reform Act of 1987, which created strict federal standards, most states have adopted laws to protect nursing home residents from abuse.

The Senate wasn’t required to look farther than Ritter Health Care Center in Indianapolis.

No further than Ritter Health Care Center in Indianapolis. Nursing home residents have dropped 25 percent in cost per patient-day at the center.

From 1986 to 1987, the center was evaluated for 14 civil financial penalties.

It was only about 20 years ago that a series of media exposés, state government reports and legislative hearings revealed widespread abuse in nursing homes, from unsanitary conditions and malnutrition to overmedication, neglect and sexual and physical abuse.

In 1987 Congress passed the Nursing Home Reform Act, which provides states with standards for staff training, independent assessments of patients and protection of basic patient rights. The law has been in effect since 1988, and its impact has been measured.

The law awaits a vote on the Senate floor to adopt the provisions of the nursing home law. It was written into law by the Senate in 1987 as part of the Defense Department Appropriations Act, which was never passed.

The law was designed to work. That is how it is working in Indiana. At this point, it would be a mistake to test it.

They had ample incentive. Reports of residents lying in excrement, dehydrated, malnourished or being force-fed in nursing homes were commonplace. State regulation was a failure. Public outrage was high.

For example: During the entire 11-year period from 1987 to 1998, Indiana assessed only 33 fines against nursing homes for violating regulations. In the three months since July 1, 1998, Indiana has assessed 33 fines against nursing homes.

The standards have been gradually phased into effect over the past eight years. As of July 1, 1998, agencies such as the Indiana State Department of Health have federal authority to levy fines and ban admissions at homes that violate the standards. As recent experience has shown, the law has dramatically changed how officials police bad facilities.

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No further than Ritter Health Care Center in Indianapolis. Nursing home residents have dropped 25 percent in cost per patient-day at the center. They are frail and vulnerable. They deserve all the protection the public can provide.
In Florida, a resident was sexually assaulted by a nurse's aid.

In Louisiana, a resident was found with maggots in wounds.

In Ohio, a resident was being fed with a syringe and aspirated. The staff was unaware what to do. The resident became cyanotic and was subsequently hospitalized.

In Indiana, a resident who was left unattended in a geriwalker and fell. She hit her head and required hospitalization.

In Maine, a resident was forced fed with a syringe and aspirated and was hospitalized.

In Maine, we have a resident die of pressure sores.

In Indiana, a resident fell down the stairs and was killed.

In Indiana, a resident in respiratory distress was left unattended for 7 hours. The resident died.

In North Carolina, a resident required thickening liquids to prevent choking. She was not provided. The resident developed aspiration pneumonia.

In Indiana, a resident was missing from the facility. He was found two blocks away.

I could go on for some length this evening, which I will not do. I suggest we make to modifications to this legislation to make sure that we tell the States, "No, we are not simply turning it all over to you, that, because Medicaid has been turned over in the form of a block grant as such, we still expect some standards and oversight and enforcement on the part of the Federal Government."

This is not something that the States can say, "Wait a minute. This is a Federal mandate here."

We have $800 billion going to the States in the next 7 years, $800 billion. That gives us some right, it would seem to me, to say that there are standards that have to be provided. They ought to be enforced, and we ought to maintain a level of oversight that will, in fact, make sure that we do not have a repetition of some of the things that I have outlined here tonight. These are just symptomatic: these are just a small sample.

I know my friend from New Mexico is sensitive to this. He served with me on the Aging Committee. The Presiding Officer sitting in the chair also serves in that committee. And we will hear more about this. We need to make sure that when you finally come to that position in life where you have to take a parent or a grandparent and turn them into the arms of those who run our nursing homes—that is just the beginning—we have to make sure that those facilities are well run, they are well managed, that the patients are properly cared for, so that the people who have entrusted their loved ones into the hands of these individuals who are running the nursing homes do, in fact, treat them with loving care, and make sure that we are satisfied that that is so.

Now, Mr. President, I will not take the time this evening—I have, I think, just a few moments remaining—other than to indicate that my friend from New Mexico is aware of my concern about this. I know that he and others are working along, hopefully, with others on both sides to make sure that this is corrected. I believe it is a deficiency. We need to correct it. And I hope we can do this evening, certainly tomorrow before we proceed further. And I yield back.

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

Mr. DOMENICI addressed the Chair.

Mr. DOMENICI. I yield 2 minutes to the Senator from California.

Mrs. BOXER. I thank the Senator very much.

I would like to commend the Senator from Maine for his words about a hidden part of this bill.

It is a very large bill, and in it is a repeal of Federal nursing home standards. In the Budget Committee on which I serve, I raised this issue. I have spoken directly on the floor. It is truly music to my ears to hear you speak about this as eloquently as you have.

I am sure you are aware that Senator Pryor has put together an amendment. I know how I feel about this issue on the floor. It is not an issue that I am going to allow to pass.

I happen to have had the sad circumstance of losing my mother a few years ago, and she died in a nursing home. Even with the Federal standards, I say to my friend, it is an awfully difficult situation. The people are so vulnerable. They are as vulnerable, in many ways, as little babies. It just tears your heart out.

To think that we would allow 50 separate legislatures and 50 separate Governors to say, "Well, gee, maybe we don't have enough money in this, maybe we do." I think is just too important.

I am so pleased to hear the Senator from Maine say that the Senator from New Mexico, my chairman, is concerned about this matter. I hope we can reach across the aisle and maybe restore those national standards.

I think it is something we did because there was a crying need. I agree that change is wonderful, but sometimes it does not make sense to change something when we learned how rough it was out there in those nursing homes.

I want to thank my friend very much. I yield the floor.

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

Mr. DOMENICI. Mr. President, do I have time remaining?

The PRESIDING OFFICER. Two minutes and twenty-two seconds.

Mr. DOMENICI. Mr. President, I yield myself 3 minutes off the bill.

I want to thank Senator Cohen for his statement tonight and his efforts in the past on the Aging Committee. He has done excellent work. Everybody knows the committee is a factfinding committee, but you have turned it into more than a factfinding committee because much legislation has come from the hearings you held.

We have fraud and abuse that, which you actually brought forth, with reference to fraud, saving money, some abuses on the side of the SSI Program, which were clearly brought out by your staff. I thank you for that, and I can assure you we have your concerns under our serious consideration, as we move through in an effort to get a good bill that passes the Senate and goes on its way to a conference in the House.

Mr. HARKIN. I also compliment Senator Abraham for this particular amendment that we are now addressing. Actually, nothing bothers senior citizens more than what they consider to be a rat's nest as they look at their bills and they look at the processes and they receive documentation on what they owe and what Medicare owes or what Medicaid owes—total confusion.

Some of them try to find out if they have been overcharged or even that they have been charged for something they do not remember getting.

Frankly, it is so complicated that they give up. We are losing because of that. One of the most credible and reliable ways to control costs is by having an informed patient concerned about costs. In fact, I think that everyone would agree that over the past 30 years, one of the reasons that health care costs have spiraled is because the patient is not developing a culture where the recipient of the benefits pays so little or nothing that they never challenge the bills and, as a result, if it goes unchallenged long enough, it gets pretty loose, to be kind of modest in one statement.

This amendment says we want to take back the patient, the senior citizen and make them part of the army that polices fraud and abuse. This says to fraud. Saving money, some abuses on the side of the SSI Program. And I hope he will put in a quorum call, I hope he will put in a quorum call, I hope he will permit them to be more selective, more concerned and to gain the confidence of the beneficiaries.

This is new and different. Some might say it will not work but, frankly, what we have been doing is not working. So it seems to this Senator that what we ought to do is adopt this amendment, make sure it becomes part of the law, and as we move through our reform, give seniors more choice which is going to permit them to be more selective, more concerned and to gain more from watching the bills. This ought to become part of the substance of the law.

Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

Mr. HARKIN. Before the Senator puts in a quorum call, I hope he will yield for a question.

Mr. DOMENICI. Without losing my right to the floor I will.

Mr. HARKIN. This Senator came to the floor in good faith because I thought that when time was through, there would be an opportunity for
Mr. DOMENICI. Mr. President, I humbly apologize. What is the Senator's question again? I was trying to get your question answered, but I did not listen to you. So that is not very good.

Mr. HARKIN. My question was. I thought under the rules, after the time on the amendment ran out, that it would be open for amendment. I had a second-degree amendment. I was going to offer. I was going to do it at this time.

Mr. DOMENICI. Mr. President, let me tell you what I understood the situation to be, and I have the minority leader here. I think what we said is the Abraham amendment will be second-degreed, and you all can amend it, but we would like to see the amendment before we agree to that. I just got the amendment, and I would like very much just to look at it for a minute and get right back to you, during which time I will ask for a quorum call. I reinstate my request.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, let me sort of outline here what we have agreed to do. I want to thank the Democratic leader and the Senator from New Mexico and others who have been working on this, along with the Senator from Kentucky, Senator Ford. As you know, we have laid aside the Rockefeller Medicare amendment and the Brown amendment to Rockefeller. The Abraham amendment is pending, and that will be second-degreed by Senator HARKIN. After that debate, that will be laid aside, and then the Senator from New Jersey [Mr. BRADLEY] will offer a motion to recommit EITC, and Republicans will offer a first-degree amendment.

Following that, we will recess for the night, leaving approximately 6 hours remaining. Then tomorrow morning, the Senator from New Jersey will have an additional 20 minutes or 30 minutes starting at 9 o'clock on the EITC.

Mr. DOMENICI. How much time is Senator Bradley getting? Is he getting a special privilege or the regular time?

Mr. DOLE. The regular time. He will save all that time.

Mr. DOMENICI. I think the Senator should speak tonight. The whole world will turn him on and turn the baseball game off.

Mr. BRADLEY. If the Senator will yield. I think the Senator is quoting me in my conversation with him, and he should attribute that to me.

Mr. DOMENICI. I was merely repeating what the Senator said.

Mr. DOLE. Anyway, there will be 30 minutes, and then after that, that will be laid aside and then there would be a motion to recommit Medicare, and then amendments to the first-degree amendments to that. That will be followed by either an amendment or a motion on education, and then a amendment or motion on deficit reduction, or a motion on rural restoration.

That takes us to approximately 12:30, at which time we hope to be able to say that we have worked out some agreement, where they will have either up or down votes on their first-degree amendments or motions to recommit, and we will have up or down votes. There will not be any second-degrees on, say, the Abraham amendment, or on the other amendments, but vote on or in relation to, and motions to table. I think that fairly well covers it. In other words, if we reach an agreement, Republicans may withdraw all second-degrees and first-degrees and have either up or down votes in relation to the major amendments. Democrats will do the same on the amendments pending. That will take us to 12:30 p.m. tomorrow. Do I properly reflect the understanding. I ask the Democratic leader?

Mr. DASCHLE. Mr. President, that clearly articulates, I think, the agreement that we have. We will have a series of amendments tomorrow morning. I suggest that the Senator from New Jersey be on the floor to offer the amendments and participate in the debate. We will continue to negotiate during that time, with an expectation of having some final understanding of whether or not we can reach an agreement by tomorrow noon. And then we will work from there.

Mr. DOLE. That would, in effect, take care of your so-called tier 1 amendments.

Mr. DASCHLE. That is correct.

Mr. DOLE. I make that request. Is there any objection to my request?

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President. It has been accepted, but might I ask both leaders this. It is clear that if we do not have an agreement and all of the first-degree amendments that were offered by the Democrats that have been set aside and then we lose, and it is our second-degrees to them, is that understood?

Mr. DOLE. That is the understanding of the two leaders. Hopefully, we can reach an agreement where they can get up or down votes on the table and we can have the same. If we cannot, we are back to square one and we start voting.

Mr. DOMENICI. Mr. President, might I thank the minority leader and those who worked with him, including Senator Exon and others. We offered you something a little different than that and. frankly. I think this accommodates both of you very well. I just want to say, if you were able to help us work it out, I thank you very much.

Mr. FORD. Mr. President, may I ask the distinguished majority leader, when do we vote? Are all the votes going to be stacked? It appears to this Senator that once you debate an amendment, you debate the second-degree amendment. If we lose that, then we lose—and that is what you want to do—but it seems to me that once an amendment is debated, if there is a second-degree amendment, that is debated, and at that point, we ought to vote on it rather than keep stacking. I know you are trying to work out an arrangement here, but something is going to be retroactive based on whatever the agreement might be.

I just hope that at some point we will get to where we can vote and get that part behind us. We understand probably the numbers of the votes, but there might be a surprise or two in this.

Mr. DOLE. I do not disagree with the Senator. But I think until we have an agreement, it probably will not work, because we would be forced, in effect, to offer amendments and may not want to offer amendments. We will keep that in mind. I think you are right; we ought to have the amendment and second-degree, and then vote. I think while we are trying to work this out—well, we should know by 1 o'clock tomorrow.

Mr. DASCHLE. In addition to that, Mr. President. I share with the distinguished minority whip that it is our intention to try to utilize the time we have and to avoid second-degrees, if it is at all possible. to allow us more opportunities to offer our amendments.

I ask the majority leader. I have shared the distinguished minority whip that it is our intention to try to utilize the time we have and to avoid second-degrees, if it is at all possible, to allow us more opportunities to offer our amendments.

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October 25, 1995

CONGRESSIONAL RECORD—SENATE S 15671

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

(The text of the amendment is printed on this page under "Amendments Submitted.")

Mr. HARKIN. Mr. President, this amendment is an amendment to the amendment offered by the Senator from Michigan. Senator ABRAMS, and it deals with waste, fraud, and abuse in the Medicare system. I might just say at the outset that while I have no real disagreements with the amendment offered by the Senator from Michigan— it is not an amendment—I just think it does not go very far. There is a lot more that I think needs to be done in the whole area of waste, fraud, and abuse than is encompassed either in the underlying bill or the amendment offered by the Senator from Michigan.

Mr. President, for the last several years, I have been privileged to chair the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies.

In the case of Medicare, at least once a year, I have a hearing on the issue of waste, fraud, and abuse in Medicare. Just about every year I asked the GAO to do a study on one facet or another of the waste, abuse, or fraud in the Medicare System.

We have had several of those, and two or three inspector general reports on that subject also during that period of time.

It seems that every year we would uncover something and try to take some action to stop it, and it would only pop up in another place and be even worse.

I became convinced over the last couple of years that major changes had to be made in the way we address the issue of waste, fraud, and abuse in the Medicare Program.

I was pleased to see those GAO reports that we have had done are available to Senators. Here is one that we had on medical supplies that was done over the last year, issued in August 1995.

Let me say for the record what the GAO found in their study of the purchase of medical supplies. They went in and did a random sample of supplies that were paid for by Medicare. They went behind the supplies to get an itemized list.

When they looked at it, the result was startling. The GAO found that 89 percent of the claims should have been partially or totally denied; 61 percent of the money paid out should never have been paid out.

That is a lot of money. Mr. President, because last year Medicare paid out about $6.8 billion for medical supplies. That sample that GAO took was representative, and I believe it probably was. You are talking somewhere in the neighborhood of $4 billion going for wasteful, duplicative, and fraudulent spending.

When we may get all of that, we certainly ought to be able to get a good share of that money back for our taxpayers who are paying this money in.

There are a lot of other programs. The computer system that HCFA used for Health Care Financing Administration, the computers are outdated. It is as if we were all using manual typewriters. That is how outdated their hardware and software is. Here is another report we had from the GAO outlining that.

Very briefly, what the amendment I have offered does is add to the amendment offered by the Senator from Michigan. Basically, it strengthens the sanctions against providers who rip off Medicare. Those convicted of health care fraud and felonies would be kicked out of Medicare. Maximum fines would be increased.

What we also did, Mr. President, I think the heart and soul of the whole thing, is that we have to go to competitive bidding.

We found, for example, that Medicare was paying up to 86 cents for a bandage that the Veterans Administration only pays 4 cents for. We found in durable medical equipment that Medicare was paying up to $1,800 a year for an oxygen concentrator that only costs $1,000. The Veterans Administration was reimbursing at only about $1,200 a year—one-third of what Medicare was reimbursing. Same for oxygen equipment and everything.

Time and again, we have found the Veterans Administration was substantially below what Medicare was paying for the same items. The reason for that is because the Veterans Administration competitively bids for durable medical equipment, services, and for supplies; Medicare does not.

Usually, when I tell audiences that, they cannot believe it. They cannot believe we would not do something so simple and straightforward and so market-oriented as to require competitive bidding for supplies, services, and durable medical equipment.

This amendment to Medicare first came in 1965—a fee schedule was set up for the items, and it has rolled on year after year after year.

Quite frankly, Mr. President, I say in all candor, these entities, these companies involved in this, have had a sweetheart deal. They have opposed efforts in this Congress and in other Congresses to do away with the fee schedule and go to competitive bidding. I can understand why—because they are really ripping off the system.

Mr. President, we had a study done on duplicative claims. Case after case where a doctor put in for, say, two X rays; the GAO found out he should have only been paid for one X ray. On and on.

Again, this is because GAO's computers could not pick it up. We had testimony from a private insurance carrier who also did the billing for Medicare. They had one set of computers and software for their private side of what they did; they had another set for what they did for Medicare.

The example I have is astounding about how for the same claims, covering the same items, under the private side the computers and their programs would pick up duplicative claims and spit those out so they would not pay it. On the Medicare side, because of the old software and computers, they would not catch it and out would go the money for two X rays when only one was required.

So our amendment, the amendment I offered, when Senator Dole said that, I believe—we can do something we went to Medicare. Want to cut money, want to save money in Medicare you can do all you want to and jimmy the system. But until we have competitive bidding we are really not going to get to the bottom of the extensive amount of money that goes out.

What are we talking about? GAO estimates that up to 10 percent of Medicare spending goes for waste, fraud, and abuse. You think this year in Medicare, if we took 10 percent, that is $17 billion a year. We are talking about 7 years here. Mr. President, $17 billion a year for 7 years, and you have more than enough to take care of fraud. I hope the Medicare system can stand clamping down on waste, fraud, and abuse.

I realize we cannot get all of that but if we could just get half of it, we would save our taxpayers and we would save the beneficiaries from having to pay more money.

Our amendment provides for that competitive bidding. It would specifically prohibit also Medicare payments for a number of items clearly not related to quality patient care.

For example, we found. Mr. President, that Medicare was paying for tickets to sporting events, personal use of automobiles, and we even found that they were paying for travel to Italy to examine art to be put into a hospital. Medicare was picking that up.

Our amendment expressly prohibits that.

Another part of our amendment clamps down on improper payment for ambulance services. Again, another GAO report that we had done shows that ambulance services are charging the highest rate for ambulance services even though they are not using all of the equipment or they are not using the more expensive ambulance services when they go out to pick up a patient. Also, we use the amendment I said, puts funds in there so they can get updated computers, so they can stop the double billing.

GAO estimated that if this amendment, this part of the amendment that we offered, to require Medicare to employ the commercial software that is available and to do it within 6 months—and GAO said they could do it within 6 months—that in the first year we could save $60 million just by employing this software.

Mr. President, our amendment would strengthen the criminal penalties and also provide rewards up to $10,000 to individuals who report violations of this law which result in criminal convictions for health care fraud.

(End of Reading.)
Our amendment also provides for uniform application process for health care providers seeking to participate in Medicare and Medicaid. Again, Mr. President, that would save countless millions of dollars.

So, in sum. Mr. President, this amendment builds on what the amendment offered by the Senator from Michigan does and what is in the bill. What is in the bill, and even with the amendment offered by the Senator from Michigan, really does not get to the real problem.

I repeat for emphasis sake: the real problem in Medicare is lack of competitive billing. All of those who believe in the market system and who believe the market system gets you the best services and the best prices. you outrage me for his amendment. We sought to get for place and for all. right competitive bidding for Medicare just like we do the Veterans Administration.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President. I yield myself such time as I may use to bring this topic on the amendment before us. and then I will yield further time to other Members on our side.

Mr. DOMENICI. Will the Senator yield 5 minutes to me first and then proceed?

Mr. ABRAHAM. I will.

THE PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. In the short time frame of this evening. not even an early part of the day. because I did not keep tabs on all times. but Senators on the other side of the aisle—this evening it was Senator ROTH and the Senate majority—Senator BINGMAN—did not talk about the distribution of the tax cuts. And Senator DORGAN said nobody has disavowed and disapproved it. that 50 percent goes to the very wealthy people.

Mr. President. the truth of the matter is that was first reported in the Wall Street Journal article, and the Joint Tax Committee writes the chairman of the Finance Committee a letter on October 24. Let me read a paragraph.

No factual basis exists for the assertion (since retracted) contained in the Wall Street Journal article of last week asserting that one-half of all households would experience a tax increase under the Senate Finance Committee revenue package.

In other words, it was retracted by the Wall Street Journal but it continues to be used. And in this letter the Joint Committee on Taxation states the following, and let me read it. Calendar year 1996. without EITC changes.

Some will say wait. you have to have EITC in it. I will put it in. Just a minute.

For 1996. it says, "Under $75,000 is 77 percent: under $100,000 is 90 percent."

In 1996. they confirm that the tax cut that 77 percent goes to people under $75,000 in earnings.

In the year 2000. there are some changes—let us put it all on the table—68 percent of the then-completed tax cuts go to $75,000 and under. and 83 percent to $100,000 and less.

Now, let us use EITC, since Chairman ROTH asked us. Check about the EITC. So we make sure we got that. With the EITC tax changes, this confirmation letter says the following. In the 1996 tax distribution is as follows: "Under $100.000. 89 percent."

It has been changed by 1 percent. from 90 percent to 89 percent.

In the year 2000. with the EITC tax changes. 65 percent of the distribution is wag $75,000 and 81 percent under $100,000.

If you are talking about taxes, that is the authentic story. from the authentic source. And this one, even the President decided not to do it on his own. Everybody uses the Joint Tax Committee. And they are saying this.

So, when anyone comes down on the other side and says nobody has disapproved it. We are going to put the letter in the RECORD.

I ask unanimous consent it be printed in the RECORD at this point. the letter dated October 24. and I yield the floor.

There being no objection, the letter was ordered to be printed in the RECORD, as follows: CONGRESS OF THE UNITED STATES.

JOINT COMMITTEE ON TAXATION.

WASHINGTON, D.C.

October 24, 1995.

HON. WILLIAM V. ROTH, JR.,
Chairman, Senate Finance Committee.
Senator办公 Building, Washington, D.C.

DEAR CHAIRMAN ROTH: I am writing in response to your letter of October 23, 1995, in which you asked me to address several questions which concern the revenue recommendations approved by the Senate Finance Committee on Thursday, October 19, 1995, and proposed to the Earned Income Credit ("EIC"). The highlights of my response to your questions are set forth immediately below. Detailed answers to each of your questions are provided in the supplemental submission which accompanies this letter.

No factual basis exists for the assertion (since retracted) contained in the Wall Street Journal of last week asserting that one-half of all households would experience a tax increase under the Senate Finance Committee revenue recommendations—even if one were to include the effects of the EIC reforms previously approved by the Senate Finance Committee.

The Joint Committee on Taxation did not change its distribution analysis of the Senate Finance Committee's EIC anti-fraud reforms even the pre-1993 policy of providing an EIC only to families with children. Approximately 1.2 million households will owe income taxes as a result of this change. Of the remaining 14.7 million households with children who would be eligible for the EIC, approximately 14 million would not have an increase in their income taxes over current law. Approximately 1.9 million households would owe income taxes because of the Senate Finance Committee's EIC anti-fraud and anti-alienation reforms. And all alienation reforms count certain types of income in determining eligibility for the EIC.

Families who are currently eligible for the maximum EIC (families with children and having adjusted gross income under $12,000) will receive an even larger EIC next year and thereafter. For example: (i) The maximum EIC for a family with one child will increase from $2,094 in 1995 to $2,156 in 1996. (ii) The maximum EIC for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996.

In addition, since these families would not owe any taxes under the Senate Finance Committee's revenue recommendations, the full amount of their EIC would represent an outlay payment from the Federal government.

Families living at or near the poverty line (one-child families with earnings under $12,500 and two-child families with earnings under $15,500) would continue to receive an EIC in excess of the family's Federal payroll taxes (employee and employer shares).

Even after the Senate Finance Committee's EIC reforms, the cost of the EIC would exceed $26 billion in 1996 and thereafter.

The share of federal taxes paid by higher-income individuals under the Senate Reconciliation bill would actually increase as compared with Federal taxes paid under current law.

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

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The distribution analysis does not change significantly if one also includes the EIC reforms (including the EIC outlay reductions) approved by the Senate Finance Committee in a separate mark-up (as requested by Senator Moynihan).

As Senator Nickles' request we also prepared an analysis of the Senate Finance Committee's revenue recommendations, including the effects of EIC reforms previously approved by the Senate Finance Committee, but limited to the revenue effects of the EIC reforms, i.e., excluding the outlay or spending portion of the proposed EIC reforms. That analysis indicates the following:

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current law, adds new offenses to those subject to civil monetary penalties, and requires that all civil monetary penalties imposed by the Medicare or Medicaid program and any remaining dollars be returned to the health care fraud account.

Eighth. For the first time, a health care fraud sanction is added to the criminal code.

Ninth. This measure extends the authority of State health care fraud control units by allowing the Units to investigate other Federal fraud abuses and allowing prosecution and punishment in the case of patient abuse in non-Medicaid board and care facilities.

Finally, Mr. President, the 10th reason the Senate Republican bill is tough on fraud and abuse is that it will clarify existing provisions of the criminal antikickback law in the areas of discounting and managed care related to Medicare choice plans. Direct the Secretary of HHS to study the benefits of volume and managed care discounts to the Medicare Program and develop regulations based on the findings of such a study.

And I just conclude my statement by saying we have stated already in this legislation to address the areas of fraud and abuse in Medicare to try to save the taxpayers’ dollars. I would just add this point. As I inspected the things that we had already done, it shocked me to discover, and realize, an important missing ingredient was to provide an incentive whereby the Medicare beneficiaries themselves could help us solve these problems in the years ahead and to provide an incentive for the Medicare beneficiaries to help us solve these problems in the twin approaches which we have outlined in our amendment.

That said, at this point—Mr. HARKIN. The Senator yield just to engage in a 2-minute colloquy?

Mr. ABRAHAM. At this point, I would like to yield 12 of our remaining minutes to the Senator from New Hampshire, to be followed by 10 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 12 minutes.

Mr. GREGG. Mr. President. I thank the Senator from Michigan for yielding this time. I think it is important at this juncture in the debate, because so much has been discussed and so much of the impacts of the Medicare activity within this bill and all these numbers that have been put on the floor, to maybe go back and review where we are, especially the context of this amendment that has been brought forward by the Senator from Iowa, which is an excellent amendment, and the amendment which has been brought forward by the Senator from Iowa, because the Senator from Iowa keeps reference to the fact that the essence of cost control in Medicare should be competitive bidding.

If that is the Senator’s position, and that is the position of the Members on this side of the aisle, then we should be embracing with enthusiasm the proposal for strengthening Medicare which we have put forward in this bill because our proposal is competitive bidding. What we are saying to the senior citizens of this country is today you are locked into a single-source provider, or approach called fee for service. But we are going to open the marketplace up to you. We are going to provide you the seniors of this country, choices—essentially the same choices in concept that Members of Congress have. We are going to allow you to choose between groups of doctors practicing together in what is known as PPOs and other groups of doctors practicing together in what is known as HMOs. We will allow you to do competitive bidding. I hope the Members from Iowa keeps reference to this time.

That is the essence of our proposal. It is competitive bidding.

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the Medicare trustees that the Medi-
care system will go bankrupt. Unfortu-
nately, earlier today we heard about the
other side of the aisle from some of the
Members that we, in controlling the rate of growth of the Medicare sys-
tem, are undermining the Medicare
system. It is true that we are trying to keep
the Medicare system from growing at the
10-percent rate of growth, which the
trustees have said is going to lead
to bankruptcy, is being construed on
the other side of the aisle as somehow irrres-
sponsible.

I find it very difficult to follow the
logic of that argument because, as the
trustees have told us, a 10-percent rate of
growth is not sustainable, and will
lead to bankruptcy. How can you come
forward on the floor of this Senate and say
that, when we are trying to control
that rate of growth and allow a rate of
growth which is sustainable which al-
low us to remain solvent, we are being irresponsible?

The irresponsibility lies with those
who continue to allow the costs to es-
calate uncontrolled at a 10-percent rate
of growth therefore, would lead
to bankruptcy of the system. The way we
are planning to control those costs is
through competitive bidding, using the
marketplace, giving seniors options
which they presently do not have, to go
out and choose different forms of
health care delivery; being absolutely
clear at the same time that, if they
want to stay in the system they want
today, if they want to stay in fee for
service, they can do that.

What has been the experience that
leads us to believe that by giving sen-
iors more choices we will end up being
able to control the rate of growth in
health care costs? It is what has hap-
pened in the private sector. The private
sector, over the last 5 years especially,
has seen a major move of employee in-
sured groups going from fee for service
into some sort of coordinated care
delivery system. The fundamental change
is that we have, the opportunity to go Out in the
marketplace and look at different
care plans and decide which one
is best for you.

And remember, we also say in our
plan that if you, the senior, happen to
purchase a health care program which
costs less than what it presently costs
us as a Federal Government to pay for
your fee-for-service health care, we are
going to let you keep the savings.

For example, in New England, for the
average senior we are paying about
$5,650 annually. The extent that senior is able
to go out, find a health plan, and pay
that has to supply the same basic ben-
fits and will probably supply many
more—eyeglasses, some sort of drug
benefit—to the extent that senior gets
that plan because the marketplace prices
that plan at a lower price, say
they get it for $4,500 instead of $5,000.
We are going to let the senior under our
plan keep up to a minimum 75 percent
of that $500 or possibly the whole $500.
With another 25 percent incentive to control costs because it makes
seniors thoughtful and yes,
cost-conscious purchasers of their
health care.

It also creates in the marketplace a
tremendous dynamic to compete for
those senior dollars, which is the whole
theory behind what we think is known
as capitalism and what we think will
generate, first, better and higher qual-
ity care and, second, care which will be
more cost-effective and therefore will
be affordable and therefore will guar-
antee the solvency of the trust fund.

The PRESIDING OFFICER. The Sen-
ator’s time has expired.

Mr. GREGG. I thank the Chair.

Mr. CRAIG. Mr. President, I join my
colleagues tonight to debate this most
important provision of the Senate rec-
ognition bill that is before us and the
Republican proposal that I am so
fond of and the components of the
these elements that we have put before the
American public as truly positive change,
while at the same time rec-
ognizing I think some of the very real
needs that many of our citizens have.
The one that the Senator from New Hampshire has just addressed and the one I will spend some time with this evening is that the Medicare and the changes we are proposing to bring stability and strength to the system and the kind of choice and independence that the seniors of this country, who are the recipients, the beneficiaries of this program, have expected and deserve to expect from their Medicare program.

The Senator from Iowa this evening had a competitive bill in the antifraud and abuse provision of Medicare reform, and for a few moments this evening I think it would be very important to spend some time with that and to understand it.

The Senator from Michigan has put forth an amendment that addresses many of the provisions and adds to many of the provisions of the Republican proposal as it relates to Medicare reform. If I forget a tremendously positive approach: this is a bill, combined with the 10 reforms already in our legislation, when scored by the Congressional Budget Office, represents a proposed savings to Medicare of $4.1 billion.

Now, I must say that I am told the amendment of the Senator from Iowa has not been scored. And I wish he were in the Chamber so that I could seek the time with him, and if he returns I will ask him that question, because as we strive to balance the budget and keep ourselves on course as the American people have asked us to, it is important that amendments that come to the floor, if they are credible, if they really want to vote on them, ought to be scored. Ours has been, and it does represent a $4.1 billion savings.

What is significant about that is representative of what is going on in health care delivery today in this country and the fact that there are dedicated efforts at defrauding both the American taxpayer and the consumer of Medicare benefits.

Senator Cohen was in the Chamber this afternoon or later this evening. He serves as the chairman of the Senate Special Committee on Aging. I have the privilege of serving on that committee with him. Over the last several years, both he and Senator Pryor, who chaired that committee before him, and I and others who have served on that committee have held a series of hearings to try to ferret out and understand the kind of waste, fraud, and abuse especially being perpetrated on the seniors of this country that would have the kind of impact on Medicare that it currently has.

In a recent couple of figures, Mr. President. As much as 10 percent of U.S. health care spending or about $100 billion is lost each year to health care fraud and abuse. That is a phenomenal figure. It is reasonably accurate. Over the last 5 years, estimated losses from these fraudulent activities have totaled $408 billion.

Now, that is not the only program or benefit that would have gone to the senior. That is tax money. That is the hard-earned dollar of the American citizen's dollar that some charlatan is making off with because they have learned to game the system and because we have not been able to catch them in gaming the system, or at least certain of them at the level that I think all of our taxpayers would want.

So the 10 provisions that are in our Medicare reform bill, that were spoken to earlier tonight, along with the additional provisions as an amendment from the Senator from Michigan, will register a savings of about $5 to $6 billion, and that is significant. That is big dollars where I come from. Big dollars in anybody's estimation, and when it comes to delivering health care needs to our seniors, those are truly important dollars.

One of the things that is most significant in all of this, while we create brand-new bureaucratic schemes to ferret out all of this, is the very simple concept with which the Senator from Michigan has come forward. That is that individual Medicare beneficiaries report suspected fraud and abuse and we create an incentive program to allow them to do that.

Let me tell you why that is important. I think if every Senator would stop for just a moment, they could remember the number of times, in the last several months they have had 1, 2, 3, 5, 10 letters from Medicare recipients in their State questioning whether their bill was accurate, whether they had been bilked out of a service that was not delivered, and whether in fact their account had been charged.

Mr. President. less than 3 months ago, a former citizen from my State, who now lives in California, called my office one day. He had happened to this man in years. He had happened to hear from Medicare. He sent me all of his material and I knew each and every one of those people that had major surgery, and he is on Medicare. For some reason, he thought something was wrong with the billing. That he not only had been overcharged, that was fraudulent charges involved.

He sent me all of his material and said, "Senator, I know I no longer live in your State but we have known each other over the years. Would you look into it?"

Mr. President. we looked into it. It was thousands of dollars of billing that he was questioning. Within a period of about a month, we had discovered. In working with HCFA and working with Medicare, that that was, in fact, fraudulent billing.

Now, that is only one example, and I have chosen not to use his name tonight because I did not ask his permission, but I have done that on many occasions in my constituencies. And I know nearly every Senator in the Senate has. We recognize without question that the current structure of Medicare simply cannot get at the kind of waste, fraud, and abuse that is current and prevalent within the program, and if we are trying to secure it, trying to make it stable, being able to turn to our citizens and say to them that Medicare will be there in the out years, strong and ready to serve them and their needs, we must get at these programs. They must result in the kinds of savings, more importantly, the kind of tightening up of it. I think is so critically necessary.

So the 10 provisions we have talked about, certainly the one that the Senator from Michigan has offered that creates the incentives for the beneficiaries themselves to become involved, working with Federal, State, and local law enforcement units to combat especially the fraud sides of these problems, is critical for us.

Mr. President. may I inquire how many minutes are remaining in my time?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. THIG. As we continue the debate over the next 12 to 14 hours. Mr. President, I hope that those citizens of our country who are watching will recognize the importance of what we do; that we, for the first time in my time in public service for the State of Idaho, that this Congress will truly bring about a balanced budget proposal, and one that will set our Government in motion toward a balanced budget.

This is exactly what the American people were asking for last November. They were asking us not only to change the way Government thinks and acts, but to do the kinds of things that we are doing in the Medicare reform, to clean it up, to stabilize it, to give them choice, to give them the freedom of not just fee for service, but the kinds of options that the private citizen of this country has, and to keep the program.

We know we can balance the budget and allow these programs to continue to serve the truly needy in our country and those that are direct participants, like the Medicare beneficiaries, and to do so in a way that allows the program to remain strong and assures that in the long term we will be able to have a balanced budget, turn to the American people and say, "We've done it. Your debt is now under control." Let us then begin to work on debt structure.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk reads as follows:

The Senator from New Jersey [Mr. BRADLEY] moves to commit the bill S. 1377 to the Committee on Finance with instructions that the Committee on Finance report the bill back to the Senate within 3 days (not to include an day the Senate is not in session) and with identical language, except that the Committee on Finance shall strike sections 746, 746A, and 746B of the bill. The Committee on Finance shall also include provisions which offset the revenue losses from the striking of such sections with an elimination of the corporate tax welfare provision.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for one-half hour.

Mr. BRADLEY. Mr. President, I knew that this debate is being held opposite the eighth inning of the World Series, and I think we will all keep the Senate guessing as to what the score is, so we can focus on the issue before us, which is the earned-income tax credit.

Mr. President, the earned-income tax credit is a way to provide tax relief to working Americans of modest income. It is the most significant tax relief provided to working Americans of modest income that we have seen in the last 20 years. It is significant that many who are striving to make a better life for themselves and their families under very difficult circumstances the money they need to send their kids to parochial school, the money they need to maybe buy a little bigger apartment, pay the utility bills. It gives them the money that allows them to continue up the ladder of upward mobility.

The key thing is the bill that we are considering now raises taxes on those working Americans. It essentially defers the third year of the tax cut that was passed in 1983 for those working Americans. In 1981, we passed a tax cut that benefited disproportionately the wealthy, and Democrats constantly made the debate that we should defer the third year of that tax cut because the wealthy did not need more tax relief.

We now have a proposal where the third year of a tax cut is about to be provided to working Americans of modest income, and the Republicans are attempting to defer that tax cut for working Americans of modest income.

Mr. President, I oppose this effort. I opposed it in the committee. I think that it is shortsighted. I think that it is not pro-growth. I think it is not prudent. I think it would raise taxes on families earning under $28,000 a year in income is an antifamily, antigrowth measure.

Mr. President, in this bill, according to the Treasury Department, all but 50 percent of the tax breaks go to people making more than $100,000 a year, at the same time, families with incomes below $30,000, which represent over 40 percent of the American families, face a tax increase.

Now, Mr. President, if this were the only measure in this bill, this tax increase on working families. I would oppose it. If it were the only measure in the bill, I would oppose it. But it is not the only measure in the bill. There are many other provisions that benefit many special interests, but there is one provision, in addition to this tax increase on working Americans of modest income, which makes the distinction between the parties very clearly, and that is the estate tax provision in this bill.

The estate tax is, of course, a tax assessed when one passes one's estate on to one's heirs. There is a $500,000 exemption, meaning that if you have an estate, when you pass away, if it is under $600,000 you pay no estate tax. Every year only 1 percent of those who die pass estates of more than $500,000. Only 0.2 percent of those who die in a year pass estates of more than $2 million.

Embodied in this bill that increases taxes on working families earning under $30,000 a year, is a tax cut for estates of $5 million, a tax cut of $1.7 million on average. Let me repeat that. In this tax bill is a tax cut of $1.7 million for estates valued at $5 million.

Once again, Mr. President, the distinction is stark. While on one hand, a $1.7 million tax cut is given to estates of $5 million, we have a tax increase on families earning under $30,000. The tax increase on families earning under $30,000. I personally cannot understand the politics of this. I do not understand the politics of why. I do not understand the politics of really to whose advantage it lies, except those who get the tax cut of $1.7 million.

So, Mr. President, the amendment that I have offered says, "Let's not increase taxes through eliminating the earned-income tax credit." I will get to that in a moment.

But the other thing that this tax cut does is, frankly, increase the national debt. Let me repeat that. This tax cut increases the national debt. This is a deficit reduction package. A deficit reduction package is for the purpose of reducing the national debt. This increases the national debt.

Why? Because in the budget resolution, that says there is an economic benefit from all this budget cutting, then that economic benefit, in its total amount, will be spent as a tax cut. That is what the budget resolution said.

The CBO says if we enact this budget with these budget cuts that it will save about $170 billion that according to the budget resolution, over a period of 5 to 7 years, it will save $34 billion as a tax cut.

But this tax cut costs $22 billion. So this tax cut adds about $54 billion to the national debt over this period. There is no disputing those numbers. There are no mysterious letters from the Joint Tax Committee. There are no nuances on words, no playing on the difference between income. Social Security, and excise. There is just a stark number, a $24 billion increase of the national debt.

Mr. President, we seem to be on two grounds. This is not merited. First, because it gives it away to estates of $5 million a $1.7 million tax cut and raises taxes on families earning under $30,000. In addition to that, it increases the national debt by $54 billion over the period of this bill. But this is the worst when it comes to the question of the national debt. Because immediately after the window of 7 years, there is an explosion of debt.

For example, the total gains provision will cost about $40 billion in the first years, which is about $5 to $6 billion a year, but in the remaining years, it costs $30 billion. So it jumps from $10 billion, $11 billion, $12 billion a year. Or take the IRA proposal, the backloaded IRA proposal: $7 million a year cost, $12 in the next 7 years, $12 billion, a little less than $2 billion a year, and in the next 3 years, $2 billion, which is another $7 billion a year.

So talking about the budget deficit, talking about an explosion of the debt, an explosion of the deficit in the debt in the outyears. On both those grounds, I strongly oppose these provisions.

The question is: is this a tax increase? We have a very skilfull maneuver being exercised by the other side. The distinguished Senator from New Mexico reported his numbers that for people earning under $75,000. 72 percent of the tax cut goes to people earning under $75,000 a year. True. But let us look a little deeper. The bulk of that goes to people earning between $30,000 and $75,000. The tax increase on families earning under $30,000 is still there.

In other words, what the distinguished Senator from New Mexico said is true and says that there is a fact that there is a dramatic tax increase on families earning under $30,000.

Then, of course, we have this famous joint tax study which concludes that less than 1.5 percent of all households will have an income tax increase as a result of EITC reforms. "There it is," says the Senator from New Mexico and the Senator from Delaware, "only 1.5 percent have an income tax increase.

Maybe, but what about Social Security taxes? If you are earning $25,000 a year, the income tax is going to be a big problem; you are going to pay it. The big tax you pay is a Social Security tax and the earned income credit is for the purpose of offsetting taxes and Social Security taxes. So everything that the Joint Tax Committee says in their letter can be true and a $20 billion increase in Social Security taxes can still be valid.

So, Mr. President, anyway you cut this, this results in a tax increase for families earning under $30,000 a year. In my State, which has the second highest per capita income, that means about 13 percent of the families in my State will have a tax increase.
I saw the distinguished Senator from New Mexico on the floor saying 40 percent of the families in his State would have a tax increase because they earn under $30,000 a year. That is because their per capita income is lower.

So, Mr. President, we are going to hear a lot about errors and yet in the opposition—only 1.6 percent—deals with anything related to compliance. If they are so interested in fraud and error, why are they not doing more to deal with compliance?

In the amendment I have suggested. I keep hearing about compliance measures. And then, of course, the other side will show a graph. “This is a gigantic explosion of growth in this program, an explosion of growth.”

Mr. President, when you give somebody a tax cut, you lose revenue. In 1993, we chose to give families earning under $30,000 a year a 3-year tax cut, which means that tax cut grows. So when you see the chart that they might use and try to figure that the line going up saying “Growth of EITC,” translate in your mind: Increasing tax cut for families earning under $30,000 a year. Yes. And if you do not want to give them a tax cut, then you would support the Republican position. If you believe they should have the third year of their tax cut, just as the wealthy had the third year of their tax cut under the bill passed in 1981, then you would support the Democratic position. Do we want to raise taxes on working families or not? Which is the pro-growth, pro-family policy? I do not think that there is much of an argument on the other side.

They will say, “Oh, no, we have a child credit.” Bravo. Let me compliment them. I wish they had supported my amendment in the Finance Committee that would have stricken even after 1996 the receipt the child credit, the adoption credit, the home ownership credit, the 30 percent mortgage interest deduction. They voted against it. Why? Because you want to have that other provision in the bill, the estate tax provision.

Remember? A $5 million estate gets an average tax cut of $1.7 million. That is why you did not support the amendment and simply have a tax cut for working families, because you wanted the tax cut for families of $5 million. Strike it from the bill. show us that you want only tax cuts for working families. If not, admit to what this game is all about.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. ROTH. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. ROTH. Mr. President, you have heard a great deal of demagoguery during the past few days from the President, from congressional Democrats, and from the Republican Senate, a lot of bogus claims about our tax package. We are here this evening to bring you the truth about the Republican tax package. The bottom line is this: American families will be better off next year under our tax package than they were the year they were. The biggest tax cut for middle-income families in more than a decade.

Mr. President, I agree with the President of the United States when he says that the tax increase of 1933 was a mistake—that the tax increase in the history of this country, I would hope that there would be bipartisan support for our tax cut, in view of the President’s message.

Under our reform, more than 98 percent of all U.S. households will receive either a tax cut or no tax increase. And this includes our reforms to the earned income tax. the $500 per child credit, and the marriage penalty relief in the Senate Republican bill. Those are the facts.

I challenge the Administration and Congressional Democrats to prove their assertion that 51 percent of all taxpayers would receive a tax increase under our bill. It has no basis in fact, and it seriously strains the credibility of the Treasury Department. The Joint Tax Committee analysis, released today, shows that the facts are on our side. Republicans are focusing the earned income credit on the working poor with children—the people for whom it was originally intended. We give a tax cut to most families that pay income tax, and we prevent those who do not pay income tax from getting the credit.

Mr. President, the purpose of the changes in EIC is to focus the program on working families with children. Senator Long was a driving force behind the original intent of helping working families with children. Sen-
Shows GOP Package Would Mean Increase For Half the Payers.

It is true that the Joint Committee on Taxation asserted that the Senate Finance Committee's revenue recommendations would result in a tax increase for one-half of all households.

In response to this question, please consider the impact of the earned income credit reforms approved by the Senate Finance Committee in a separate markup last September. We received the answers, and the answer says, "No factual basis exists for the assertion, since retracted, contained in the Wall Street Journal of last week asserting that one-half of all households would experience a tax increase under the Senate Finance Committee revenue recommendations."

Even if one were to include the effects of the EIC reforms previously approved by the Senate Finance Committee, our analysis indicates that less than 1.5 percent of all households would experience an income tax increase.

I think that shows the falseness of the claim that 50 percent of the American people would suffer a tax increase because of this package we are considering today.

Now, during the Senate Finance Committee's markup of revenue recommendations on October 18-19, 1995, various assertions were made with respect to the impact of the EIC reforms previously approved by the committee.

I asked the Joint Committee on Taxation to address the following questions: Would any households receiving an EIC today pay more income taxes under the combined efforts of the Senate EIC reform, $500 per child credit, and marriage penalty relief? If so, provide how many households would be impacted in this manner and explain why.

The answer is that, "with respect to the Senate Finance Committee's previously approved EIC reform, our analysis of the effects of the Senate Finance Committee EIC reform indicates that 0.5 percent of all households would experience a tax increase because of an income tax increase as a result of the EIC reforms."

Would families with children who are currently eligible for the maximum EIC—that is, families with earnings under $12,000—continue to receive in future years at least as much EIC as they now receive?

Again, the answer is, "families who are currently eligible for the maximum EIC with children and having adjusted gross income under $12,000 will receive an even larger EIC next year and thereafter. For example, the maximum EIC for a family with one child will increase from $2,094 in 1995 to $3,000 in 1996. The maximum EIC for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996."

This is illustrated here on the chart. It shows, for example, that a family with children that has income of $10,000 would receive this year $3,110; that would go up to $3,208 in 1996. The same is true for a family with children that has income of $15,000. This year they would get $2,392, that would go up to $2,488 in 1996. Not only would they continue to get EIC, but it would continue to increase.

Mr. President, let me just again emphasize that the claim that people with incomes below $30,000 would have a tax increase is totally false. First, what the Democrats are doing is calling a reduced welfare check a tax increase.

The PAYCHECK CREDIT. The time of the Senator is expired.

Mr. ROTH. I yield myself 5 additional minutes.

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

Mr. ROTH. Second, if someone receives a check from the Government for $50 in 1995, and then in 1996 under our reforms receives a check for $75, that is $25 higher. Republicans and the most people would call that a big check from the Government. But the people on the other side of the aisle call it a tax increase if the person was supposed to receive a check for $100 in 1996.

What we are doing is slowing the rate of growth of this program. In the last 10 years this program has grown something like 1,000 to 1,200 percent. The tax credit which was 14 percent plus 5 years ago.

What we are trying to do is to slow down the rate of growth so that we can balance the budget.

Now, I listened. Mr. President, with great interest to my Democratic colleagues' description of what we are doing. People are saying that they do not like the tax package. They make fun of the changes in the estate taxes.

Just let me say, as I have gone around back home and talked to the farmer or to the owner of a family farm, as I talk to the owner of a small business, one of their greatest concerns is that they are not going to be able to turn over their farm or that business to their children.

What are we seeking to do in our changes in the estate taxes is to make that possible. It is possible for the family farm to continue as it has in the past, or to make it possible for the entrepreneur who is successful in creating a small business to leave it to his children.

We think our package is a humane package. We are proud of the fact that it means tax cuts for the American people. We agree with President Clinton when he says that the big tax increase of 1993 was too high.

Mr. President, I yield back the floor.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts.

Mr. ROTH. Mr. President, at the outset of my comments of the Senator from Delaware, he talked about telling the truth versus bogus claims. Then he refers to a Joint Taxation Committee study to try to refute some comments made by the Senator from New Jersey.

If we want to talk about bogus claims, the Joint Taxation Committee—which I might add is chaired by the party that spends a statement saying there is no linkage and no increase, but refers only to income tax.

Here you have another sleight-of-hand, bogus effort to avoid the reality. The same way the reality is being avoided right now with the debate on the thousands of pages that takes place during the World Series. It is a great way of avoiding accountability.

The fact is that the earned income tax credit is a credit not just against income tax but also against the payroll tax. The Joint Taxation Committee says nothing about the payroll tax impact. So, in effect, it is another sleight of hand.

If you want to talk about bogus—you just heard the chairman of the committee say, Mr. President, that we are going to slow down the rate of growth of the program.

What is the program? The program is a tax cut for working poor—by his own admission—when he has come to the floor and said is we will slow down the capacity of working poor Americans to participate because we are not going to give as much of a tax cut to them. It is that simple. This is not complicated. We are going to slow down the rate of growth in the tax cut for working poor Americans. We are going to increase the impact of the people who have it already in America. That is what this is all about.

If you happen to have a $5 million estate, you are going to get a $1.7 million tax break. But if are a working poor person—and I have 194,000 families in Massachusetts that will be affected by the cut in this program, 194,000 families in Massachusetts are going to pay $370 more in taxes because they want to slow down the rate of growth in the tax cut. That is 10 years this program has grown some. It is that simple. This is not complicated. We are going to slow down the rate of growth in the tax cut for working poor Americans. But we are going to increase the impact of the people who have it already in America.

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Families living at or near the poverty line, one-child families with earnings under $15,000 and two-child families with earnings under $15,000, would continue to receive an EIC in excess of the family’s Federal payroll taxes. 

Mr. BRADLEY. Mr. President, no one disputes what the Senator has just said. EIC is available for families under $28,000. He is saying at the same time this is nothing but a welfare program. He is saying, fine, we will keep the welfare, but if you start to make it a little bit—sorry. We will not offset your payroll taxes.

I mean, that is not an answer to the problem that we posed. Yes, they posed it so that if you have poverty and you are right at the poverty level and you have family now, you have kids—not if you are single and poor, but if you have kids, then, yes, it will offset the Social Security earned income. Of course, you do not pay a whole lot of income taxes in poverty. You pay virtually no income tax when you are in poverty.

So you only have Social Security. So the earned income would offset Social Security in poverty. But not at $28,000. Not what they are talking about to make a little money. Not when they are making $20,000, $25,000, $28,000, $29,000. Not there, no, no, no. That way, you pay more taxes. Welcome to the middle class, the Republican middle class.

You are middle class. You begin to make it? Pay more taxes. If you have that estate of $5 million, you get a $1.7 million tax cut. That is the story here. There is no other story. It has not been refuted. A 3-year tax cut in 1993 for working families? Republicans say do not give them that third year. Do not give them that third year of tax cut.

Pro-family? Pro-growth? Hardly. The PRESIDING OFFICER (Mr. Brown). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, how much remains on this amendment? The PRESIDING OFFICER. There are 10 minutes and 8 seconds remaining.

Mr. NICKLES. Mr. President, I would like to answer my colleague from New Jersey. He said, 'What about a family that makes $28,000.' Under current law, they have a great big earned income tax credit of $116. But, look out, they have a great big earned income tax cut. Under current law they have a great big earned income tax credit of $116. But, look out, they have a great big earned income tax cut.

Under our proposal they are going to get a $1,000 tax cut. The proposal of the Senator from New Jersey, they get $165. My figures calculate they come out better by $835, under our proposal. And that is only dealing with the tax credit for children. It does not include the fact we are reducing the marriage penalty, so that gives them another $100. I will just tell my colleague from Massachusetts said you did not calculate the fact that you are off-setting payroll taxes.

My friend is wrong. Mr. KERRY. Will the Senator yield for a question? Mr. NICKLES. He will not yield. Mr. KERRY. Will he yield for a correction?
just so I understand the point he just made? It is an interesting point. I am not too sure I was fully aware of it. What the Senator is suggesting is that the earned income tax credit for low-income Americans actually pays out money in excess of all their Federal tax obligations. Is that correct?

Mr. NICKLES. That is correct.

Mr. SANTORUM. The new definition of what is a tax increase is when the Federal Government does not pay out more money to you and you already do not pay that is a tax increase. So if you are entitled to get more welfare—let us call it what it is. It is a welfare check. It is a check not to offset taxes, but it is a cash payment to families or to individuals. If you were expected to get more money, then by not giving them more money, we are giving them a tax increase even though they do not pay taxes.

Mr. NICKLES. The Senator is exactly right.

Mr. SANTORUM. That is an amazing statement. How can anyone call getting more money from the Federal Government when you pay no taxes a tax increase?

Mr. NICKLES. I appreciate the statement.

Mr. SANTORUM. I would love the Senator from New Jersey—I know he is a Rhodes scholar—but redefine for me, please, how someone who does not pay taxes gets a tax increase.

Mr. NICKLES. I say to my colleague that I have the floor.

Mr. SANTORUM. On his time, I would love to have him answer that question.

Mr. NICKLES. I only have 6 minutes. I have several points that I want to make. The point being when someone says they are offsetting FICA, the amount not only offsets FICA, but 200 percent of FICA, which means 25 percent of FICA, and that includes employer income tax. The employees actually only pay half of that amount. In reality, it is about four and a half times what an employee pays on FICA.

The cost of this program is exploding—my colleague from New Jersey said he knows the Senator is going to stand up and show how this program has exploded. I grinned at him because I know this program cost less than $2 billion in 1985; in 1986, less than $2 billion. Today the program costs $23 billion. That is 11 times what it cost in 1986.

This is an entitlement program. What is the definition of an entitlement program? It is when you pass a law under which, if you met certain criteria, you are going to get a check. That is what the EITC is. It is a cash payment program—not $23 billion in payments.

Actually, I will give the exact figure. In 1995, the figure is $23.7 billion, over $20 billion of it is a cash outlay with Uncle Sam writing checks—not reducing somebody’s cash income taxes and or payroll taxes on a monthly basis. It is Uncle Sam, in 99 percent of the cases, writing a check once a year, a cash outlay program that I mentioned before which exceeds Aid for Families with Dependent Children. It is paid out in a monthly basis to help low-income families. This is a lump-sum payment that is paid out at the end of the year at a cost of $20 billion.

This program was lauded by President Reagan and others when it was a $2 billion program and when the maximum benefits were $435. The maximum benefit in 1985 was $350. By 1990, it had increased to $533. It was actually $1,500 in 1992, and President Clinton doubled it again. It went up to $3,110.

So we are talking about a program, if you have two or more children, where your maximum benefit went from $500 to over $3,000.

Some people said these Republicans have just slashed this program, and people are going to receive less. I saw a program on CBS tonight. They interviewed a woman who had a couple of kids. She really was making more money. I complimented her. She made her think she was going to get less money than she got this year. The facts are, if she is getting $3,110 this year, next year she gets over $3,200, and the next year she gets over $3,300. Under our proposal the benefit rises from $3,110 to $3,888, an increase of over $700 in the next 7 years.

So we did not freeze this program. We did not cut it. We do say some people should not be eligible because we found hundreds of thousands of people that make over $30,000 a year who are qualifying for it. They should not be. We found out that illegal aliens are receiving benefits, and they should not. So we eliminate them.

Frankly, we agree with Senator Russell Long that we should drop the benefit for illegal aliens. This program was always formulated with the idea of helping individuals and families with children.

We are reforming the system. We are trying to provide assistance to those people who really need it. But then we allow the system to grow. That is my point. It really is bothersome to have individuals stand up and say, you are increasing somebody’s taxes when I know what the facts are. I will read the figures. If you have two or more children, the maximum benefit today is $3,110. The maximum benefit next year is $3,208. The maximum benefit the next year is $3,312. And, again, it increases over $100 per year to the maximum benefit. In the year 2002, it is $3,888, a significant increase every single year. It grows with inflation.

So how can people say, Well, you are increasing taxes? It does not make sense.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator’s time has expired.

Mr. NICKLES. Has time expired on our side on this amendment?

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

Mr. NICKLES. I will wait until my colleague from New Jersey concludes.

At that point in time, I will send an amendment to the desk.

The PRESIDING OFFICER. The Senator from New Jersey has 5 minutes, 20 seconds remaining.

Mr. BRADLEY. Mr. President, the assertions by the other side that the child credit is more generous than the earned income tax credit for families with children at all income levels will not work. I have four kids. I make $15,000 a year. I have a very tiny income tax liability, very tiny. The child credit is not refundable. I get no benefit at all from the child credit—zero. I lose about $3,500 in benefits with the loss in the EITC at $28,000.

The Senator picks the absolute perfect number. Why? Because the earned income tax credit loses its value the higher the income level. So when it gets to $28,000, it is not worth anything. At that point, clearly the child care is more valuable. That is not a policy. That is mathematics.

Then the issue of—well, the chart that the Senator had with the growth of the EITC, it grows with us giving them bigger tax cuts. That is 100%. I put that chart up, and you see the bar goes higher and higher. That means a bigger tax cut for families earning under $28,000 a year. If you do not want a tax cut, then you want to support the program that would curtail this. Deny the third year of the tax cut. That is what you are saying essentially.

Basically, the tax cut for working families was put in in 1993. It was phased in over 3 years and the other side is saying do not give the third year.

That is why it grows. Once you get to the next year, it is flat because the tax cuts will have been provided. There will be no more tax cut in the fourth year. The program is not so complex. It is mathematics. You give a bigger tax cut, you lose more revenue. We chose to give a big tax cut to offset Social Security, to offset income taxes to offset working families. And you know what. There are a lot of provisions in the Tax Code that say you get a credit against income. They are largely corporate. The other side is not calling that welfare. That is not welfare. But somehow when it offsets the income of a working family with kids, that is welfare.

Mr. President, it is beyond me: 78 percent of the earned income tax credit goes to offset Social Security and income tax. The other position is a refundable credit to those families making $13,000, $14,000 a year who otherwise would not get anything.

The distinguished Senator from Pennsylvania is correct. If you want to give those families these tax cuts, because they are working, but they do not pay any income tax and they are at a low enough income, they do not pay enough Social Security tax, you have to make it refundable and then you have to appropriate the money.
That is what we do here. And this vast amount of money that is appropriated, as the distinguished Senator from Oklahoma says, is appropriated because there is not a way to offset the Social Security taxes. It is pretty simple. It is not complicated. And it boils down to whether you want to give a break to families with children or whether you do not.

There is the big deal about families that do not have children. We do not want to give them anything. If you are making $12,000 a year, you do not have any kids, somehow or another you do not get anything here. Forget it. You are not worth it. You are struggling. You are working hard. But somehow you do not qualify for this. In fact, we do not care about it. We do not care what your Social Security taxes are. Somehow you are a nonentity.

We do not think that. We think that if you earn under $28,000 a year, you ought to get a break. Particularly in a bill that gives $1.7 billion in relief for estate taxes.

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

The Senator from Oklahoma. Amendment No. 2958.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The amendment is as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself and Mr. BROWN, proposes an amendment numbered 2958 to the instructions of the BRADLEY motion to commit S. 1357 to Finance Committee:

Strike all after "Finance" and insert:

"With instructions to report the bill back to the Senate forthwith including a provision stating:

"The maximum earned income credit for a family with two or more children will increase from $2,094 in 1995 to $2,156 in 1996.

"And the effective date for section 7461, "Earned Income Credit Targeting to the Working Poor," will be moved to taxable years beginning after December 31, 1994."

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, this is an amendment offered by myself and Senator BRADLEY that tried to clarify a couple things.

One, we want to state very clearly exactly what we did in the bill and that is an increase in the earned income credit for individuals with one child from $2,094 in 1995—that is present law—to $2,156 in 1996.

That is an increase of about—whatever the difference is—$60 some odd, and an income credit for a family of 2 from $2,368 in 1995 to $2,488 in 1996; an increase of about $120. So we make that very clear.

The second part of that is we say we want to deny benefits to illegal aliens and make the effective date December 31, 1994. Some people are shocked to find out that they were eligible. I was surprised. But I looked at a GAO report, and it said:

Illegal alien receipts. IRS expects more than 160,000 illegal aliens received the EIC in 1994. We ought to stop that. Right now it is legal.

It says:

"The Internal Revenue Code does not prohibit illegal aliens from receiving EIC if they meet prescribed eligibility requirements.

Well, they should be, and so let us make that illegal. If they are here illegally, why in the world should we be giving them a check, especially a check if you are talking about to the tune of $3,000. So let us tighten that up. That is a loophole that needs to be tightened. We need to tighten up loopholes.

Senator ROTH mentioned several. I compliment Senator ROTH because he has shown great courage and leadership in trying to tackle the fastest growing entitlement program in Government. No other program is growing as rapidly, as fast as the so-called EIC. No other program costs over 10 times as much as it did 10 years ago and continues to explode. So it needs to be reformed. And no other program that I know of has such high fraud rates at such astronomical levels as the EIC.

This is a GAO report that is dated March 1995: "Earned Income Credit Targeting to the Working Poor.

Well, we should turn and just read from a couple of their highlights. It says the IRS did a study in 1994 on electronic returns only. They said 29 percent of the returns received too much EIC, and 13 percent were judged to have received intentional errors. In other words, that is fraud. It also mentioned, it says that the most recent taxpayer compliance measures showed that 42 percent of EIC recipients received too large a credit and about 32 percent were not able to show that they were entitled to any credit. One out of three in the comprehensive study were not able to show they were entitled to any credit. And that is about 34 percent of the total EIC.

What other program has a 34 percent failure rate, or 30 some odd-percent error rate? This program has.

And part of it is because the cost has just exploded. You have a program that grows at 10 times the rate it was just a few years ago, and you have a program where the maximum benefit is six times what it was 10 years ago, you realize you have a program that is ripe with fraud and needs to be reformed. It has not been yet. The IRS is trying to tighten down already, but they have not been totally successful. They may have reduced it somewhat, and I compliment them, but they have a long way to go if you have an error rate of 30, 40 percent. And so we need to make some changes. Senator ROTH has made many of those changes.

We say that we must count almost all income. We find hundreds of thousands of people who receive benefits that make a lot more than the income eligibility called for, people making more than $30,000, some making more than $50,000. They have interest income that is tax free. It does not count toward their income eligibility and therefore they can continue receiving EIC benefits.

Mr. President, we need to make some reforms and we need to make clear that we want to target these benefits to those people who are truly needy. That is the kind of reforms that we are making today.

I want to answer my colleague from New Jersey. He said, what about the—maybe I could get his attention. My friend from New Jersey asked about a couple that made $15,000. Well, in 1995, they received an EIC of $2,360. In 1996, under our reform proposal, they are going to have an EIC of $2,488. That is a $128 increase.

Now, my colleague from New Jersey would like that increase to be $400, but we have it increased by $128. They have an increase. And, again, they did not pay any income taxes. They are getting a return in excess, or at least 100 percent of all their FICA taxes, including what their employer paid, and we are giving them $100 more than they had last year. That is not a tax increase.

My colleague from Pennsylvania said, 'Well, how do you look at the world can you call something a tax increase if you are giving somebody $3,000, and next year you are going to give them $3,200? How can you call that a tax increase?'

Well, let us just take, for example, that you have a rich uncle. The rich uncle wants to encourage certain behavior, saying if you work a little bit, he is going to give you a bonus. If you work about $10,000 or $12,000 worth, he is going to give you a $3,000 bonus because he wants you to work. Is that not nice?

The uncle says, 'I'm going to give you $3,000. Next year I am planning to give you $3,500.' But your uncle's board of directors said you cannot afford that, you are breaking the bank. So instead, they gave you $3,000 next year, actually $3,100 next year instead of giving you $3,500. "We cannot afford it. Let's give him $3,200. Let's keep it to a moderate growth. Give him an increase, but not $400 or $500. Don't do that; the program is growing too fast. But it is a bonus."

It does not have anything to do with taxes. This is far in excess of any tax liability, either FICA or income tax. That means about $9,000 income tax base. I hoped I was going to get more money." I do not think so.

This body is going to show, I believe, that we have the courage to curtail the growth of Medicare, which is a very popular entitlement program. And we are going to do that in the EIC program about 7 percent per year. We have a program here that continues to grow. The total growth in the EIC program is
going to grow about 10 percent over the next few years. The out-of-pocket costs in 1995 were about $20 billion. It will be about $23 billion in 2002. That is an increase of 15 percent in 7 years.

That is an increase in outlays, so the program grows. It does not grow as fast as it would like. President Clinton and others would like it to grow up to $30 billion. Well, frankly, we cannot afford that. We can never balance the budget if we do not have the controls to contain the growth of entitlement programs. And this is the fastest, most fraudulent entitlement program in Government.

We need to curtail its growth. That is what we are trying to do. We allow the EIC benefits to go up for individuals with two or more children. They do not grow as fast as some people would like. President Clinton and others would like it to grow faster. We cannot afford it. We allow the benefits to go up by over $100 a year.

For individuals who have one child, we make no change. Individuals that have one child get the exact same benefit as they get under present law, unless we agree to President Clinton's proposal. We did not make a change. We did eliminate the benefits for individuals without children.

And I think about that. I have kids that could qualify. Other people do. We are expanding eligibility by several million people. How much money are we talking about? We are talking about $308. I think, this year, giving that benefit to lots of people. And you say, "Why do you care about that? That is a small amount of money."

Well, look at what this program cost a few years ago. The maximum payment was $50,000. With two or more children, was $500. In 1983, 7 years later, it is $3,000. What is the benefit going to be for that individual that happens to be $300 or $400 today? Ten years from now maybe it is $3,000. We will have a program again that continues to escalate.

This program, Russell Long mentioned it. I have an article in which he states this program should not have been expanded. Russell Long was one of the fathers of this program. He said it should not have been expanded for individuals without children.

I might mention in the 1993 tax bill, there was no Republican that voted for it, and when it passed the Senate it did not have a benefit for individuals without children. That was added on in the House. And, unfortunately, the Senate concurred with the House in conference. But it was not in the bill that passed in the Finance Committee in the Senate nor in the bill that passed on the floor of the Senate. It was added in conference. That was a mistake. It was a massive expansion in one year. added entitlement to several million people.

So we changed that. We eliminate illegal aliens. And we say we should count almost all income. You should count tax-exempt interest as far as determining who is eligible for this program. You should count other income in determining who is eligible. We allow eligibility, and the amount of income to determine eligibility, to increase.

Right now you qualify for this program if you have income up to $26,673. Some people say, "You really cut that back." No. We are not under our proposal, by the year 2002 you can have income up to $29,300 and qualify.

Now, that does not grow quite as fast as President Clinton would like for it to. He allows people to receive the benefit if they have income equal to $34,600. Let us think about that. Are we going to have Uncle Sam writing checks—remember, 85 percent of this program is Uncle Sam writing a check, not reducing anybody's taxes, but writing checks. You have to make your incomes less than $34,000. You are going to be talking about a majority of American families. And old Uncle Sam is going to be paying people. So we use this income as an initial massive income redistribution program.

Contrast that to what we are trying to do on the Republican side. We are saying, "No. We are going to give a tax cut for families, a tax cut for people who pay taxes," not just come up with schemes to have a negative income tax and have Uncle Sam write big checks at the end of the year. No. We are going to try to reduce all families paying taxes, reduce their taxes so they can take to a monthly basis and keep more of their own money. That is what we are talking about doing. That is what is fair.

Then my colleague from New Jersey, or one of my colleagues, was denigrating the tax cuts that we made some changes on the inheritance tax, said how terrible that was. Maybe they should come into my State and talk to some of the members of the Oklahoma Farm Bureau, or one of my colleagues, was denigrating the inheritance tax. I think that is a fair and profamily and that is what we are trying to do.

Uncle Sam comes in and says, "We want to—" Somebody dies. They want to pass the property on to their family. And Uncle Sam says, "Well, we want 18 percent of it or we want 55 percent of it." That makes it very difficult to pass on to succeeding generations.

So what did we do? Well, we said for a family estate, let us increase right now the exemption from $600,000 and increase it over 6 years to $750,000. We increased that amount $25,000 per year. And then we also say if it is a family-held business, we want to encourage that. We happen to be probusiness. We want to encourage family-owned corporations, whether it is a janitor service or whether it is a car dealership or whether it is an insurance company. We want to encourage family ownership, whether it is a farm or a ranch or a dairy operation. We want to encourage that.

We say, if they are going to pass the property on to their own heirs, they should be able to pass it without tax. So we raise that estate exemption up to $1.5 million. And we cut the rate down for those between $1.5 million and $5 million so they can keep it in the family. I do not have to sell it. nor have to sell a family business just to pay an inheritance tax. I think that is a fair and a good idea.

I think that is profamily and that is going to encourage growth and encourage a family to keep going. "Well. I might as well spend the money because I cannot pass it on. I do not want to give it to Uncle Sam." We want to encourage people to build up businesses, to expand, to hire more people, to create more jobs, and to pass it on to their children, and let their children build it up and be second, third, fourth, fifth generations in some of these family-owned operations or businesses.

And now, we limit it really to the lower size family operation, not big estates that help the people that have the very large estates. But I think we were very family friendly. And I think this entire tax bill is very family friendly. And again I want to compliment the chairman for crafting. I think, a very good targeted approach, one that has 70-some odd—three-fourths of this package is very family friendly. If you look at the tax credits for children, you look at the gradual reductions in the marriage penalty, you look at the estate tax exemptions that we make for family-owned farms and ranches and businesses, this is a very family friendly tax bill, probably the most profamily bill that Congress has ever seen.

I would encourage my colleagues to support it and to reject those who say we should not make any reduction whatsoever in the growth of EIC, which is the fastest growing of the rapid growth of fraudulent program that we have in Government today.

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

Mr. NICKLES. Mr. President. I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection. It is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection. It is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate resumes consideration of the reconciliation bill tomorrow, that the Democrats have 3 hours remaining on the bill and the Republicans have 3 hours and 15 minutes remaining.
MORNING BUSINESS  
(During today’s session of the Senate, the following morning business was transacted.)

TARGETED JOBS TAX CREDIT

Mr. BAUCUS. Mr. President. I want to remind us of the Work Opportunities Tax Credit, which is the substitute for the Targeted Jobs Tax Credit, which expired at the end of last year.

Mr. President, the TJTC has had a lot of experience in the TJTC area. In fact, the 4 B’s is nationally recognized as a leader when it comes to hiring disadvantaged and handicapped youth. Many of whom had their first job with 4 B’s.

Bill has had a lot of experience in the TJTC area. In fact, the 4 B’s is nationally recognized as a leader when it comes to hiring disadvantaged and handicapped youth. Many of whom had their first job with 4 B’s.

I understand that the Senate Finance Committee is seeking the Tax Reduction bill, which was similar to the one developed by the House Ways and Means Committee. Their bill, as written, virtually eliminates most companies from participating in the new program by ignoring the youth group (18-24 year olds) not located in an empowerment zone. Not to mention the increased retention period from 120 hours to 350 hours.

Those two changes would preclude most Montana companies from participating in the proposed program as there are no designated empowerment zones in our state that I am aware of. Nor would the proposed tax incentive offset the expense of tracking and retaining new hires eligible for the targeted group. After all, the objective of the program is to give people on government assistance a job training to take advantage of all employment opportunities. Why should the initial employer train those types of people for other employers to receive the tax credit?

In my opinion, the proposed bill eliminates all employers, not located in an empowerment zone, from participating in the new program. The cost of identifying new hires eligible for the targeted group, and the expense of tracking those eligible for 350 hours, would far exceed the tax benefits proposed.

The only way our company could effectively participate in the new program would be with the inclusion of 18 to 24 year olds that were “means tested”, and the retention period is lowered to 200 or 250 hours.

The above changes to the program would allow all Montana employers to participate equally with larger employers, since that all people, with employment barriers, have an equal opportunity to seek employment.

I would greatly appreciate you informing me if these changes can be effected.

Sincerely,

W. E. HAINLINE
President.

THE SUMMIT BETWEEN PRESIDENT CLINTON AND CHINA’S PRESIDENT JIANG ZEMIN

Mr. PELL. Mr. President, I rise today to call attention to yesterday’s summit meeting between President Clinton and Chinese President Jiang Zemin in New York.

Last summer, relations between the two countries fell rapidly and unexpectedly since the Tiananmen massacre. Largely over the visit of Taiwan President Lee Teng-hui to Cornell University, his alma mater. Most of us in the Senate, myself included, supported that visit as a private one for this distinguished alum. I continue to believe that the Chinese leadership in Beijing overreacted to the visit and allowed the bilateral relationship to unravel unnecessarily. I was sorry that Beijing chose to react to Lee’s visit by withdrawing the Chinese ambassador to the United States, suspending ongoing bilateral discussions, proliferating nuclear programs, suspending sales of United States officials to China and visits of Chinese officials to the United States, and by canceling bilateral discussions with Taiwan. But now, after several months of relative calm, we have the opportunity to bring some stability back to the relationship and I support the President’s decision to hold this summit in New York.

I did not believe that this summit meeting would produce a significant breakthrough on any of the issues with which we continue to disagree with Beijing, including Tibet, ballistic missile proliferation, nuclear testing, suppression of dissent in China. And trade issues. It did not. Recent press reports state that Chinese leaders demanded certain concessions from the United States, such as written assurances that members of Taiwan’s top leadership will never again be granted entry to the United States. That the United States will refrain from criticism of China’s human rights record in international fora. The administration has no such assurances. These are important policy issues, with significant domestic and international ramifications for both governments. Both governments seem convinced that the other is being unreasonable and obstinate. It is unrealistic to expect any major accords could have come under current circumstances.

This is an unfortunate state of affairs between two of the world’s most influential countries and hopefully a passing one. But for the time being we must focus on keeping the relationship steady and effective. That is why a summit meeting between the two presidents was so important at this time. The United States raised all of the issues that we believe to be important and let the Chinese leadership know our commitment to them, and we should continue to do so. But it was also right to listen to President Jiang’s concerns and to strive for mutual understanding, if not mutual agreement. Those who criticize our President for failing to win major concessions likely fail to recognize the realities of the current relationship and the necessity of strengthening contacts at all levels. The United States, and by canceling bilateral discussions. Both governments seem convinced that the other is being unreasonable and obstinate. It is unrealistic to expect any major accords could have come under current circumstances.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today’s bad news about the Federal debt, how about another go, as the British put it, with our pop quiz. Remember? One question, one answer.
The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

Harkin amendment No. 2957 (to amend- ment No. 2956), to strengthen efforts to com bat Medicare waste, fraud, and abuse.

Bradley motion to commit the bill to the Committee on Finance with instructions.

Nickles/Brown amendment No. 2958 (to Bradley motion to commit the bill), to in crease the earned income tax credit for fam ilies.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Min nesota.

MOTION TO COMMIT

Mr. WELLSTONE. Mr. President, I am proud to be an original cosponsor of the motion by Senator BRADLEY. Let me start out by saying, last night I think we had a good technical dis cussion and an important policy discus sion. I must say, I think all of my col leagues are enormously impressed with Senator BRADLEY’s mastery of the ma terial.

Mr. President, what I would like to do today in the 5 minutes that I have, is to talk about this vote before us in a slightly different context. I say to my colleague from Wisconsin, my good friend. I have been thinking about the first class I will teach again at the col lege or university, community college, or University of Minnesota. In this class, which I hope to teach in 7 years from now, the first lecture is going to be about this week. It is going to start out with a definition of politics, and I am going to say politics is, in part, about values and what we all care about, and we can have honest dis agreements.

The second part of the lecture I am going to give when I go back to teaching is going to be titled: Who decides? Who is asked to sacrifice? And how do these decisions take place? That really summarizes this motion that the Sen ator from New Jersey has offered, which I am so proud to be a cosponsor of.

A question: Who decides that we are going to have $245 billion of tax giveaways to people already high-income and wealthy, least in need of those breaks? And whose parents, or whose children go without adequate health care? It is that simple. Or, Mr. Presi dent—and this refers to some amendments that I will later on make sure that colleagues vote on—who decides that we are going to essentially, leave untouched this area of corporate welfare, that if you have a $5 million estate, you are going to get a tax cut, as my colleague from New Jersey pointed out last night, to the tune of $1.7 million.

But at the same time that you have that kind of tax giveaway, at the same time you have special tax loopholes and breaks for oil companies, or insur ance companies, or you have citizens who work abroad in other countries that do not have to pay any taxes on the first $70,000 they make, or special breaks for pharmaceutical companies and, at the same time, Mr. President and there is no better example—a $5 million estate. How many people ever have that, and you get a $1.7 million tax break.

Who decides that we are going to have that kind of tax giveaway to the wealthiest of the wealthiest citizens in this country, and not those whose chil dren go hungry and whose children are not able to afford a higher education?

In the lecture that I give, when I teach again, I am going to continue to raise these questions. I will ask the question: Who decides that we are going to raise taxes for more than 200,000 people in Minnesota, families in Minnesota, with incomes under $30,000.00 a year, hard-pressed people and, at the same time, we are going to let the one person in my State—or maybe two—with a $5 million estate get $1.7 million in a tax giveaway?
We make choices here, and these are the questions: Who decides? Who benefits? Whose taxes are raised, or who cannot afford health care, or who cannot afford to send their kids to college.

I want to use the few minutes I have left to address this process. Mr. BRADLEY addressed the Chair. The PRESIDENT. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

Mr. KOHL. I thank the Senator. Mr. President. I rise today as a strong supporter and original cosponsor of Senator Bradley's motion. It presents a straightforward tradeoff to the Senate. It says restore the tax credit for lower income working families in exchange for getting some of the tax breaks available to large financial institutions and corporations.

Before I get into the arguments for this motion, I want to say a brief word on this budget. In general, Mr. President, like many of my colleagues, I cannot agree with the priorities established in the budget bill before us today. But what I find more disturbing than the bill itself is the partisan and destructive direction the debate over this budget has taken. We have polarized in extreme political positions firing slogans and half-truths at each other. The two parties agree on many basic principles that could underpin a balanced budget plan. There are billions of dollars and miles of middle ground between the Democratic and Republican budget battle stations. Yet we have chosen to stay locked in our traditional partisan positions. I want to use the few minutes I have today to talk about the ample room for compromise in the current budget debate. I want to remind my colleagues about the principles that bring us together as public servants—rather than those that drive us apart into our partisan political camps.

First, we believe in balancing the budget. This is a year in which a majority of the Senators voted for a balanced budget amendment to the Constitution and a vast majority voted for a 7-year balanced budget plan. Whether we talk about 7 or 10 years, most of us agree it is time to stop adding to our national debt. Whether we cut defense or domestic programs, neither of us agree that Government should spend less.

Second, we believe that the growth of spending on Medicare and Medicaid must be restrained and doing so will involve difficult choices. We heard no one deny that the aging of our population and out-of-control health care costs have put into jeopardy these two basic health care programs. I do not think anyone is seriously suggesting that we can continue to let them grow at their current rates.

How much we cut this year, how much we put back into Medicare and Medicaid, how we make those cuts are all legitimate items for debate. Whether cuts need to occur at all is not debatable.

Third, we believe that our economy needs to grow and grow in a manner that rewards families who choose work over welfare. A huge majority of this Senate just voted for a welfare bill—a bill included in the budget before us—that radically changes welfare into a flexible program that rewards people into jobs. A majority of those who have served in this and past Congresses have supported the earned income tax credit, a tax incentive for families that work. Encouraging work—rewarding work—supporting working families. These ideas are not Democratic or Republican. They are American.

On these three points of agreement alone, we could build a credible balanced budget plan. Mr. President, I yield 5 minutes to the Senator from Wisconsin. Mr. KOHL. I thank the Senator. Mr. President, I rise today as a strong supporter and original cosponsor of Senator Bradley's motion. It presents a straightforward tradeoff to the Senate. It says restore the tax credit for lower income working families in exchange for getting some of the tax breaks available to large financial institutions and corporations.

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reason I will vote against this budget, and why I do not believe it can form the basis for a serious compromise so sorely needed. I can and will ask for sacrifices for the common good as long as they are shared sacrifices. But I will not support a bill that imposes real pain on many to provide gain for a few. I cannot justify asking for a sacrifice from so many when I, myself, would get a big tax break under this bill.

Our time is limited, so let me offer three brief arguments for the amendment to the earned income credit before us.

First, the amendment would make the balanced budget plan more fair. According to Joint Tax Committee data, the budget before us makes most taxpayers with incomes of $30,000 or less worse off than they are under current law. Compare that with the top 1 percent of taxpayers—those with incomes above $200,000—who would receive a tax break, on average of $3,088 under this budget plan.

The primary reason for this imbalance is the cut in the earned income tax credit (EITC)—the only tax break targeted to low-income working families.

No one here would claim that balancing the budget is easy or can be done without sacrifices by many people. However, how can we ask a majority of the taxpayers to accept a balanced budget plan in which they lose a small, wealthy minority wins? That is not balanced, and, once it is fully understood, I do not believe it will be supported by most Americans.

Second, the amendment before us keeps a bipartisan promise made to working families. The EITC was enacted during the Ford administration and supported by every President since then. It represents a bipartisan commitment to keeping families out of poverty with children above the poverty line. In short, the EITC makes work pay better than welfare.

I ask every Member of this body talk about the importance of moving people from welfare to work. And we need to do that in a manner that is not bureaucratic and not burdensome to business. The EITC does this. If we cannot agree in this body to keep our promise to working families by preserving the EITC, I am afraid there is going to be very little we can agree on.

Finally, the amendment before us cuts fat without cutting muscle. Some have characterized the EITC as a program plagued by uncontrolled growth and fraud. But that is not the case. Only 5 percent of the cuts in the EITC proposed by the budget are related to fraud—and our amendment keeps those cuts to the extent of the cuts in deductions in taxes that go directly to working families.

The average annual Federal tax hike proposed in this budget for the 282,000 Wisconsin families who get the EITC would be $457. No one, I hope, is claiming those families—many of whom make around $12,000 a year—are defrauding the Government. No one, I hope, is suggesting that their one tax credit ought to be first on the budget cutting block.

Mr. President, we are all agreed that we have to balance the budget, and to do that, we have to reduce entitlement spending. But we have to do so in a way that makes sense and is fair. Cutting an established bipartisan tax credit that encourages work over welfare does not make sense. Cutting it while increasing tax breaks for corporations and the wealthy is not fair. I urge my colleagues to support the Bradley motion.

Ms. MIKULSKI. Mr. President, I rise today to speak out against the Republican proposal to raise taxes on working families and in support of the Democratic amendment. The Republican tax plan raises taxes on families making $200,000 while giving a big fat tax cut to people with incomes over $2 million... We talk a lot about getting people off welfare. But I believe if we are serious about moving people from welfare to work, then work must pay them enough to get through the week. If mot or dad works 40 hours a week they should be able to pay the bills. They should be rewarded for working hard. The earned income tax credit does that, it rewards hard work by families. It allows these struggling families to have hope for a better future.

Yes, we talk a lot about welfare reform. We talk a lot about family values. But look what we do. I believe what we explicitly state as our values we should implicitly reflect in our public policy. What is our public policy? This Senate is already on record against even debating an increase in the minimum wage. This Senate is about to approve cutting a tax credit that helps these very same working men and women who depend on the minimum wage.

What are we saying to these families? We are saying even as you struggle and work hard, we are going to raise your taxes. And why? Is it because we want to balance the budget? That is what the Republicans say, but that is not the truth. The only reason we are raising taxes on working families and slashing Medicare is so that the Republicans can pass a big tax cut for people making $100,000 or $800,000 a year.

Mr. President, in order to fund a capital gains tax cut for the wealthy, the plan before us would cut the earned income tax credit by $42 billion and call it reform. It would increase the tax deductions for capital gains by $33 billion and call it fair.

The earned income tax credit is designed to reward work. For every dollar a low income worker earns at a job, he or she gets a tax break. The size of the tax credit ranges from 7 cents to 36 cents per dollar, based on your family size. This credit is gradually phased out as income rises so that there is always an incentive to earn more and work more. In short, the EITC helps to offset the heavy burden that taxes can place on a family that counts every single penny. It is tied to income, not to what is earned on a job. It provides a tax break to those who need it most, low-wage earners.

But all of this is being changed by the reconciliation bill. Single workers will be cut off. Families with one or two kids will have their credit reduced and their taxes increased.

And what does this mean? To the people of my State of Maryland it means tougher times. The EITC mean that over 270,000 Maryland taxpayers will pay more while those at the top pay less. These cuts in the EITC mean that by 2002, people of my State will pay an average of $345 more in taxes. It means that 127,000 Maryland families with two kids will have their tax bill go up by $147 a year.

Let us talk about what this tax increase means to real people. For Rhonda Clark, a 26-year-old mother of two young kids, living in Baltimore, it means that even though she has worked hard to get off welfare and to raise her two young kids, even though she has played by the rules, life is about to get harder. For Rhonda, this tax increase means she will have less money to pay for child care for her two young kids. Inflation will go up, but Rhonda's tax credit will be reduced in 1996 by $367.

Mr. President, the EITC has a long bipartisan support. But that is about to change too. This tax credit has been endorsed and expanded by Presidents and Congresses of both parties. President Ronald Reagan called it "The best antipoverty, the best profamily, the best job creation measure to come out of Congress." This credit rewards work. It is a bonus for the good guys because it is based on hard work. We should not be precipitating this attack on it. Not cutting off workers, cutting off families, and cutting off hope.

Let us reflect in our public policy what we have stated as our values. Let us keep faith with working families by supporting the earned income tax credit.

Mr. KENNEDY. Mr. President, the earned income tax credit is a valuable tax credit for our working families. As enacted by the Congress in 1993, the EITC would provide a tax credit for over 21 million workers and their families this coming year. Working families with earnings of up to $28,500 per year would be eligible. These families who play by the rules and work hard each day to get by. These are the same families who are disproportionately affected by the Republican cuts in domestic spending.

The earned income tax credit is the result of a bipartisan effort to create a program that is fairer than work at lower wage jobs, and was hopefully a major aspect of welfare reform. President Reagan called it the "best
reduce erroneous claims. There is no more fraud and abuse with this credit than there is in capital gains claims of the rich.

Other improvements to the credit have been made consistently over the past several years. Most recently, it was altered to deny eligibility to those with $2,500 or more of taxable interest and dividends.

There has also been too much rhetoric about the fact that the rate of growth of the EITC is out of control. That is not the case. With the 1996 expansion, the CBO projects that the EITC will grow at least 4.5 percent per year. This growth is due largely to inflation. As a percentage of gross domestic product, the cost of the EITC will decline after 1997.

Mr. LEAHY. Mr. President, I rise in strong support for the amendment offered by the distinguished Senator from New Jersey.

It restores $43 billion in cuts over the next 7 years in the earned income tax credit in the Senate Republican reconciliation bill.

At a time when many working Americans are struggling to make ends meet, the Senate Republican budget would have hit low- and moderate-income working families. It would also raise some State taxes on these same working families.

This is a double whammy on working families.

This Federal tax increase will also raise taxes in seven States that have a State earned income tax credit tied to the Federal credit, including my home State of Vermont.

This bill will raise both State and Federal taxes on 27,000 Vermont working families earning less than $28,500 a year.

As a result of this double tax jeopardy, working Vermonters will lose $64 million in Federal earned income tax credit benefits and an additional $16 million in State earned income tax credit benefits over the next 7 years.

On average, 60 percent of Vermont taxpayers would see their taxes rise under this bill because of these earned income tax credit cuts.

Under the Senate bill, a Vermont family of four earning $15,610 a year, the 1995 poverty line, would lose $4,500 of earned income tax credit benefits over the next 7 years—$3,800 cut in the Federal earned income tax credit and $900 cut in the State earned income tax credit.

A Vermont family of four making $22,000 a year would fare even worse—suffering a loss of $1,208 in State earned income tax credit and a loss of $4,831 in Federal earned income tax credit over the next 7 years.

It is very doubtful that the Vermont General Assembly, faced with the need to increase the State earned income tax credit to make up this loss, would even more Federal cuts on the way.

Workers are treading water or worse against the rising tide of inflation and low wages. Now is not the time to cut a tax credit that will raise Federal and State taxes on low- and moderate-income families.

Instead, I urge my colleagues to support this amendment to restore the earned income tax credit.

As the Senate debates S. 1357, the fiscal year 1996 budget reconciliation bill, I am concerned that the tax changes and spending priorities put forward seek to balance the budget on the backs of senior citizens, low-income families, the working poor, and our Nation's children.

The Republican proposal for a $270 billion cut in Medicare, a $182 billion reduction in Medicaid, and a $43 billion tax hike for families earning under $30,000 a year to finance $35 billion in tax giveaways—over half to individuals earning over $100,000 annually—clearly outlines the number one priority of the Republican plan: tax relief for a privileged few.

The details of this legislation stand in stark contrast to the intended goal of reducing the Federal budget deficit. The fears I expressed during debate on the budget resolution have been confirmed by the broad cuts within this bill. This cuts at the expense of our responsibility to make work pay, the education and well-being of our youth, the retirement security of our parents, and our commitment to long-term investments in productivity, education, and job training. This approach is shortsighted and threatens to reverse progress made in genuine deficit reduction and tax fairness over the past years.

The tax increases contained in the reconciliation bill hit hardest on working American families. In particular, the $43 billion reduction in the earned income tax credit (EITC) will raise taxes for 17 million working Americans and their families. The most effective way to improve the economic well-being of the middle class and working poor is to promote policies that reward work and lessen dependency. Resources should be focused on economic policies and public investments that enhance productivity, create well-paying, skilled private sector jobs, and restore economic mobility and prosperity to working Americans.

Yet the Republican plan cuts the earned income tax credit by $43 billion over 7 years; reversing longstanding bipartisan support for policies that make work pay. The earned income tax credit helps low-and-middle-income working families who have seen their wages decline since the 1980s and serves as a safety net for middle-class families confronted with a sudden loss of income. The EITC helps these families through economic difficulties and encourages policies that make work pay.

The Republican proposal for a large number of jobs created last year and the 2-year decline in the national unemployment rate, the earnings of many Americans have remained stagnant. In fact, over the last decade the median income has declined even as our standard of living eroded. People are working harder and longer to make ends meet. The number of working
The 1993 expansion of the EITC was designed to lift a family of four, in which a parent works full-time, year-round at the minimum wage, to the poverty line. This $43 billion tax increase on millions of working families—many just above the poverty line who are struggling to work, raise their families, and avoid welfare, will destroy an important incentive that encourages work and self-sufficiency. The proposal put in the EITC would increase Federal income taxes on millions of low-income working families with children. The Treasury Department estimates that 17 million low-income American taxpayers will see an immediate tax increase averaging $281 per year under the Republican proposal. When fully implemented, the Republican proposal would boost the average tax bill for working taxpayers by $435 billion.

In 1986, working families with more than one child will see their EITC reduced by $270. A working family with two children earning $20,000 or less would see a $372 tax hike. Working poor families with one child and taxpayers without children also will see a tax increase under the GOP plan. The elderly, disabled, and retired who receive Social Security and have an average income under $12,000 will see their taxes climb by an average of $589 under the Republican plan. Over 1 million low-income working families—and over 2 million children—would suffer as a direct result of this proposal.

Working families with children that have low and moderate incomes face three strikes under this bill. The reduction in the earned income tax credit, cuts in Medicaid, and ineligibility for the EITC will reduce the $500 proposed. The impact of this proposal is astounding. The numbers are staggering. This budget will raise taxes on 17 million families across America. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $522 tax increase in 2005.

What kind of message does this proposal send to our hard-working families? Does it send a signal of security and hope? Or does it tell these families that the burden is on their own? Does it tell these families that are working to stay above the poverty line that we no longer reward hard work and support their efforts?

Mr. President, the EITC has always received bipartisan support because it is a commonsense tax credit. It rewards work. It provides a real incentive. It gives people the means to move from the welfare rolls to the work force.

As we all know, in 1986, Ronald Reagan praised the EITC. I remember him saying, “It is the best antipoverty, best profamily, best job creation measure to come out of Congress.”

As in President Reagan’s day, many of today’s hard-working American families are trying to make end’s meet, send their kids to school and provide them with a future. Average American families are worried today about their jobs. They are anxious about their cost of education. And there is genuine concern out there about the costs of health care. It is astounding that the other side has chosen this time to reduce the EITC.

Mr. President, this tax increase is not a big deal to some of our colleagues here in the Senate, but, believe me, these are real increases to average Americans.

As I have said many times throughout this budget process—I will say it again now—I have no confidence nor provides any hope. It hurts the little guy, those who need help, those who are struggling to make a living and provide for their children, and it rewards those who do not.

Taking away this tax credit adds insult to injury. The EITC keeps people off welfare. It offsets other forms of formal assistance. It gives American parents the security they need to enter the work force.

We cannot balance the budget on our working poor, our elderly and our children, and we cannot justify cutting taxes for the wealthy while increasing taxes on the poor. We should put things back in perspective and help those who really need our help.

Mr. President, I urge my colleagues to support this amendment. It tells working families we are in their corner. It says we are against increasing their taxes and we are for insuring their financial security.

I commend my colleagues from New Jersey and urge all of our colleagues to support this sound, commonsense amendment.

Mr. BRADLEY. Mr. President, in 1981, Congress decided to give a 3-year tax cut to families earning under $30,000 a year. That is essentially what this debate is about.

As I said last night, I would oppose their effort to raise taxes on families earning under $30,000 a year if it was a free-standing amendment. In the context of this debate it is virtually unconscionable because of the estate tax provision in this bill. I have not heard anyone on the other side defend this provision. If you have a $5 million estate you pay $1.7 million less in estate tax because of the changes in this bill. I have not heard one person on the other side of the aisle stand up and credibly defend why we should give less than one-tenth of 1 percent of estates in this country a $1.7 million tax cut while we are raising taxes on families earning under $30,000 a year. I have not heard that defense. Maybe it exists. I have not heard it.

The distinguished Senator from New Mexico read a letter from the Joint Tax Committee, as if the letter clinched the case. And the letter of course says that 72 percent of the tax benefits in this bill go to families earning under $30,000 a year. That is true. One does not dispute that. But that is not a refutation of the fact that taxes are increased on families earning under $30,000 a year. It means that the tax cut for those with incomes between $30,000 and $75,000 is large enough to offset the tax increase for those earning under $30,000.

Then, finally, there was this nice phrase here in the letter from the Joint Tax Committee, “Only 1.5 percent of all households will have an income tax increase;” an income tax increase.

Mr. President, people who earned under $30,000 a year last year paid $114 billion in Federal taxes. Guess how much of the $114 billion was income tax? It was $12 billion. Mr. President, $12 billion out of the $114 billion was income tax.

What other taxes do they pay? They are working people. They pay Social Security taxes. For years we heard from the other side that the残酷 tax of all is the tax on working Americans, the Social Security tax. What they are doing is essentially raising the effect of the Social Security tax on poor families and individuals living at or below the poverty line continues to grow.
those working people, because the earned income tax credit offsets Social Security taxes, and income taxes and excise taxes paid by families earning under $30,000 a year. And the Joint Tax Committee did not refute that. The letter refers only to income taxes, not Social Security taxes.

So let us be clear here. Let us be clear. There has not been one refutation of the fact that the earned income tax credit offsets Social Security taxes. And when you repeal it, you are essentially raising Social Security taxes on families earning under $30,000 a year. Why do this in the context of a bill where estates of $5 million get a $1.7 million tax cut? Tell me how is that good policy.

Then, of course, we are going to see a chart later. The famous growth chart. That will tell us that the earned income tax credit has increased dramatically in the last 3 years. How it is exploding since 1986. Every time, Mr. President, every time we hear that argument about the earned income tax credit exploding, remember, Mr. and Mrs. America, what they are saying is that working families are getting a bigger and bigger tax cut and they do not like it. Republicans want to reduce their tax cut. They want to raise taxes on working families.

So when you see that chart going up, that is not a chart of the growth of the earned income tax credit. That is a chart of taxes going down for working families in this country.

So when the distinguished Senator from Oklahoma puts that chart up—and I hope he puts that chart up at some point today—remember those bars that go higher and higher: Lower taxes for working families in this country.

Mr. President, this is one of those moments that is so clearly defining, that it really is even reachable by my own rhetorical skills. You do not have to be a great speaker when you have all the真理. No, you do not have to be a great speaker when you have no refutation on the other side, and when the choice is so clear—a $1.7 million tax cut for estates of $5 million? That is less than one-tenth of 1 percent of the estates in this country in any given year. So the contrast is clear: a tax cut of $1.7 million for estates versus a tax increase on working families.

The other side says, "We did not increase it on families. We only increased it on estates of people earning under $30,000." Well it is true that single people are clearly getting a tax increase. That is true. But I can also give you plenty of examples of where you increased taxes on working families. Anyone who is single under 30, yes, you get a big tax increase—a big tax increase. Not a small one, a big one. And for many families, it is also true.

And for many families, it is also true. A real family, like the Helmicks of New Milton, West Virginia, will be worse off, not better. The Helmicks are a family earning $30,000 a year. And for many families, it is also true. But that" is not an issue that I think bears very a strong vote in support of our effort to protect this tax cut for working families. Mr. President, I am prepared to yield 3 minutes to the distinguished Senator from West Virginia, who is on the floor now in support of this amendment.

Mr. ROCKEFELLER. The distinguished Senator from New Jersey is kind as always.

Mr. PRESIDENT. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am going to be on the floor again today because the Republican rhetoric is not matching the reality and the Republican rhetoric is that the children's tax credit will help families.

In reality, too many families will be excluded from this credit because it is not refundable. In fact, over 20 million children will not receive the full benefit. And these children are in families earning less than $30,000. Families that need tax relief the most to make ends meet on a tight family budget.

To add insult to injury, not only do Republicans deny the credit to such hard working, low-wage families. Republicans fail to pass it for it by imposing a tax increase on those who lose a $42 billion cut from the earned income tax credit [EITC].

The Republican leadership continues to claim that their tax package helps middle-class American families. And this sounds good. But I want to know how they define the middle class?

In my State of West Virginia, we believe that parents who go to work every day, whose children are middle class, admirable, and deserving of support and encouragement. Over 65 percent of our taxpayers are working hard but earn less than $30,000. For such families they will lose, not gain under this bill.

West Virginians have a basic sense of fairness and common sense. They will know that this package and its claim of middle class tax relief is false when they fill out their tax forms in April 1997.

Just 2 years ago, these working families were promised tax relief. Now Republicans are reneging on that deal and raising taxes on families earning less than $30,000. For families with two or more children, their taxes will go up an average $483. For families with one child, taxes will go up an average of $410. This will hit over 77,000 families with children in my State of West Virginia alone.

But such numbers can be numbing. Let us get beyond the rhetoric, and look at real families.

A real family, like the Helmicks of New Milton, West Virginia, will be worse off, not better. The Helmicks are a family of six children, ranging in age from 5 to 14. Mrs. Helmick works full-time as a secretary for a local construction company, and Mrs. Helmick is a full-time homemaker. In the past, they have used their EITC to buy baby furniture and to buy a used truck for Mr. Helmick's construction transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt. Not helped. And families like the Helmicks who can count on the child credit to help them hurt by the cuts in EITC, probably will not be claiming capital gains tax breaks either. For them, this package does little more than renew their cynicism since it reneges on promises made just 2 years ago when we told families to play by rules, to go to work instead of welfare and we will offset your payroll taxes so that you do not have to raise your children in poverty.

But badly hurt are families in West Virginia who will be hurt rather than helped by the Republican tax proposal.

I thank the distinguished Senator from New Jersey.

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

Mr. PRESIDENT. The Senator from New Jersey has 3 minutes and 4 seconds remaining.

Mr. BRADLEY. Mr. President, I have one final point.

The purpose of the earned income credit is to offset income taxes that working families pay, and to give people—and Social Security taxes that working families pay, and excise taxes that working families pay. That is the purpose of it.

The other side has said this proposal that they have offered does not increase income taxes on 98 percent of the people.

Mr. HELMICK. Mr. President, I want to ask about Social Security taxes? What about Social Security taxes? Are they saying those are not taxes? Are they not saying that a working family at the end of the month has less money in their pockets because they paid those taxes? A working family has less in their pockets after this proposal passes because of the Social Security taxes that they do not have offset, and the excise taxes that they do not have offset if you are a working single person. Forget it. You are going to have a serious increase in taxes. Those are the facts. Those are the facts.

One repeat of a statistic: Of the $114 billion in Federal taxes paid by families and individuals earning under $30,000 a year, only $12 billion of the $114 billion are income taxes. We offset all the others. They offset only the $12 billion.

In the context of a tax bill, where an estate of $5 million gets a tax cut of $1.7 million, I really want to hear the other side defend that estate tax provision.

I want to hear them make the argument about the family farm because I will have an amendment later that will protect the family farm, and it will cost $700 million as opposed to $3 billion in Federal taxes paid by families earning under $30,000 a year. And for many families on the farm, it is not a little bit more benefit to business corporations, and not only the family farm. I can understand why that is good politics for some. It certainly is not good politics for putting hard work up for those who are working hard.
Mr. BRADLEY. Mr. President, reserving the right to object, what was the request on the EITC?

Mr. ABRAHAM. I do not think it is a request, since the confirmation of an agreement reached last night for 10 minutes reserved for Senator Nickles to comment further on the motion that the Senator from New Jersey has offered.

Mr. BRADLEY. There was a motion made last night? I do not think there was a motion last night relating to any time allotted to the other side.

Mr. ABRAHAM. The motion I believe is the motion of the Senator from New Jersey. I believe the agreement with regard to time on that motion is 10 minutes had been reserved.

Mr. BRADLEY. Reserving my right to object, my understanding is Senator Nickles’ amendment was on a second-degree amendment. Senator Nickles chose to withdraw his second-degree amendment. I do not think there was ever an agreement on time.

Mr. ABRAHAM. Mr. President. I propose to have Senator GRAHAM proceed. If he chooses to take off the bill we will for Senator Nickles.

Mr. BRADLEY. Mr. President. I have no objection to time off the bill.

Mr. EXON. Mr. President, we can then proceed at this time in the usual fashion. I am pleased to yield 1 hour off the bill of time to be controlled by the Senator from Florida who wishes to address the matter, and I hope the Chair will recognize the Senator from Florida at this time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, could I ask the ranking member a question? Is it 1 hour under the control of the Senator from Florida, or is it 1 hour equally divided?

Mr. EXON. Under the usual procedures, there is 1 hour under the control of the minority. I have just yielded that 1 hour to the Senator from Florida, and, of course, there is also 1 hour for the Senator from Georgia.

The PRESIDING OFFICER. The Chair will inform the Members of the Senate that, since this is a motion, it is 1 hour equally divided between the sides. That would be 1 hour equally divided between the proponents of the motion, Senator GRAHAM, and 1 hour for the opponents under the control of the Senator from Michigan.

Mr. GRAHAM. Thank you, Mr. President. Mr. President, in light of the limitations under which we will debate this matter, I will make a few opening comments, and then yield 5 minutes to my colleague from Minnesota.

Mr. President, one of the most significant but not adequately focused upon aspects of this debate is the impact which this reconciliation will have on the most important Federal-State partnership in existence, which is the Medicaid program. This program represents for most States——
which exist in the current law as well as rendering the program unable to respond to changes in circumstances among our 50 States. So I move to commit.

Mr. GRAHAM. Mr. President, with those introductory comments, I send to the desk a motion to commit with instructions.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] moves to commit the bill S. 1337 to the Committee on Finance with instructions to report the bill back to the Senate within 30 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to eliminate reductions in the Medicaid program over the seven year period beyond $62,000,000,000 and reduce revenue reductions for upper-income taxpayers by the amount necessary to ensure deficit neutrality. In addition, the Senate is instructed to achieve the Medicaid savings through implementation of a Medicaid per capita cap with continued coverage protections and quality assurance provisions for low-income children, pregnant women, disabled, and elderly Americans instead of through implementation of a Medicaid block grant.

Mr. GRAHAM. Thank you, Mr. President. I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I say to my colleague from Florida, I do not have much confidence about this 2,000 pages plus and what it is going to mean. I represent 425,000 Minnesotans and I represent the other side of the Mississippi River.

The other day in the Chamber of the Senate I had an amendment. I did not mean for it to be symbolic. I thought there should be 100 votes for it. My amendment said that if by virtue of action we take in this reconciliation bill there are fewer children with medical coverage, also more children that are hungry, then we will revisit what we have done over the next year and we will take action to correct this damage. I could not get votes for that. I received 45 votes.

I come from a State with 425,000 Medicaid—we say medical assistance—beneficiaries, projected to be, I say to my colleague from Florida, 335,000 by the year 2002. My State of Minnesota does not have a single brain cell in the world we are going to do in response anywhere from $2.5 billion to $3.5 billion—we do not even know yet—of cuts in medical assistance. And I can tell you with all due respect to my wonderful colleagues, in my not so humble opinion, I come from the greatest State in the United States of America. We have done some wonderful things. We are a compassionate State, and we will not walk away from the most vulnerable citizens.

So the shell game for Minnesota, and for all too many of our States it is a shell game.

Mr. President, 300,000 children are medical assistance beneficiaries in my State of Minnesota, many of them in working families. We will not walk away from those children. So the counties are going to have to pick up the cost. It will be the property tax, Minnesotans.

In my State of Minnesota, we have done some wonderful things to make sure that people in the developmental disabilities community can keep their children at home, do not have to become indigent and poor to get assistance. We are not going to redefine that. These children with developmental disabilities may live lives with dignity. But I will tell you what is going to happen. With draconian cuts in medical assistance, our State will not walk away from this community. It all gets put back on the States, all gets put back on the counties. This is nothing but a shell game.

In my State of Minnesota, 60 percent—60 percent—of our medical assistance programs are for nursing homes. I have been to a lot of those nursing homes, and a lot of the people who are the care givers ask the following question: Senator, what are we going to do with these reductions? We cannot live with these reductions and still live up to standards. Are we going to let staff go? Are we going to redefine eligibility? Are there going to be fewer benefits?

This is not just the elderly. These are the children and the grandchildren as well.

This amendment really cuts right to the heart and soul of what we are about here. It is about the heart and soul of what it means to represent. For those Minnesotans who have $5 million in an estate, they are going get a tax break. I say to my colleague from North Dakota, of $1.7 million. Those are the kind of cuts we are all going to support. But at the same time we have draconian cuts in medical assistance for people with disabilities, for children and for elderly citizens. And in many ways, I say to my colleague from Florida, I think these reductions are perhaps the most problematical for the States we represent, the most problematical, the most awful, the most god-awful for the counties and local communities that we represent, because in my State of Minnesota we are not going to walk away from the citizens. Somebody is going to have to do the bill. We are going to have to do it out of the local property tax, and that is going to be the most difficult way of all.

This makes no sense at all. This is, as I have said 1,000 times in the Chamber of the Senate, a rush to recklessness. This is a fast track to foolishness, and I wish my colleagues would look at their language and look at their statistics and look at their charts and read their sentences and understand what the consequences are going to be for the lives of the people we represent.

Let us have deficit reduction, but let us do it after some tough choices are made, and tighten their belts. Let us look at the subsidies to the oil companies, coal companies, pharmaceutical companies, insurance companies, estate breaks, and all the rest.

Let us not cut medical assistance to the point where we are denying quality health care for the people we represent. This is an extremely important moment in American history, in American economic justice. And I say to my colleagues, it is also about good health care policy. The numbers should drive the policy. We need to have deficit reduction, but we cannot be reckless in the lives of the people we are here to represent.

The PRESIDING OFFICER. Mr. GRAHAM. Mr. President, I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MUKULSKI. Thank you, Mr. President.

I rise in strong support of the Democratic leadership amendment. The Graham motion. My Republican colleagues constantly remind us of how important family values are. And I think family values are fantastic, especially the one that says, "Honor thy father and thy mother." I think it is not only a good commandment to follow, I think it is a good public policy to implement. I believe when we say, "Honor thy father and thy mother," we should have this in our Medicare Program and in our Medicaid Program. A substantial part of the Medicaid Program goes to services to the elderly who are in nursing homes. We have watched this program grow. And it is an important safety net to the American middle class. We need Medicaid to be a safety net for the people who have no other resources for long-term care and also for those who are disabled, disabled Americans who rely on Medicaid because they cannot get private health insurance.

My dear father died of Alzheimer's. I could not reverse the tide of him dying one brain cell at a time. I vowed I would devote my life to fighting for a long-term care policy. That is what the Spousal impoverishment Act was, a protection, and what we passed in 1988. I am glad that we do not repeal spousal impoverishment. And I hope it does not erode.

I regret that we are now going to cancel out the protections of nursing home grants that looked only for people who were in nursing homes, people who were too sick to be able to protect themselves, the laws that prevent restraints and the laws that prevent abuse, that mandates standards, so that we have our children and our Parkinson's or other dementia diseases where we need long-term care, even though we cannot change the course of the disease, we can ensure that they are in a
safe, secure environment. We can be sure of a lot of things if we pass the Graham amendment.

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

Mr. GRAHAM. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is entirely appropriate that today we focus on the other real aspect of the Medicare debate, and that is Medicaid. Medicare is the support for our seniors by 22 percent. The Medicaid legislation reduces it by some 30 percent. Today I want to talk for just a few moments about the children who are going to be adversely impacted by the current legislation that is before the Senate, unless the Graham amendment is passed.

Among the children—in 1993—9.5 million were uninsured. The best estimate is that currently, about 12.6 million of uninsured children will increase to 17 million in the year 2002. Under the Republican proposal, 4.4 million additional children will be uninsured in 2002 for a total of 17 million. Even under current law, there will be an upward flow in the number of children who lack health insurance coverage, but the Republican plan makes it even worse.

Just 2 years ago, on a bipartisan basis, under the leadership of Senator ROCKEFELLER, Senator RIEGLE, and others, the Finance Committee passed a program to provide comprehensive health services for children up to the age of 18 who were at or below 185 percent of poverty. We have one intervening election and look what happens? We basically pull the rug out from underneath the children of this country. And why are we doing it? To provide tax breaks for the wealthiest companies and corporations doing it? To provide tax breaks for the wealthy individuals and corporations of this country. And, Mr. President, in order to remedy that, we should embrace that.

Mr. President, this amendment offers us the best opportunity to do so.

Medicaid is the companion program to Medicare, and the Republican assault on Medicaid is even more cruel and unfair than their assault on Medicare. The Republican plan would cut Medicaid by $187 billion over the next 7 years.

The country is up in arms over Medicare cuts that would mean a 22 percent reduction a year by the end of the budget period. By the end of that same period, Medicaid will be cut by a staggering 30 percent a year. In large measure, the Republican cuts in Medicaid will strike another blow at the same groups hurt by the Republican cuts in Medicare—senior citizens and the disabled. Ten million elderly and disabled Americans are enrolled in Medicaid. Twenty-three percent of them—nearly one in four—will lose their coverage.

Seventy percent of all Medicaid spending under the program is for these two groups—the elderly and disabled—and much of it is for long-term nursing home care.

But there is also another group who will be especially injured by the Republican cuts—America’s children. Seventy percent of Medicare spending is on the aged and disabled—but 70 percent of the people rely on Medicaid are children and their parents—a total of 18 million children and 8.1 million parents.

Every child deserves a healthy start in life. But under the Republican program, millions of families who have worked hard all their lives will be forced to go without such care tomorrow. One in every five children in America depends on Medicaid. One in every three children born in this country depends on Medicaid to cover their prenatal care and the cost of delivery. These children are also guaranteed prenatal care, immunizations, regular check-ups, and developmental screenings. And, they are guaranteed the physician care and hospital care they need.

The vast majority of Medicaid-covered children—80 percent—are in families with working parents. For these parents work full time—40 hours a week, 52 weeks a year. But all their hard work does not buy them health care for their children, because their employer cannot provide it and they can’t afford it on their own. Even the Medicaid fills only part of the gaps. Over 9 million other children are uninsured, and each day the number rises. Soon, less than half of all children will be covered by employer-based health insurance.

We tried to address this problem last year, but Republicans said no. Now, they are trying to undermine the only place where families without employer-provided coverage can turn for health care.

The Republican cuts in Medicaid will add 4 to 6 million more children to the ranks of the uninsured. When they are down and out in four of these years, children will have no insurance at all.

These cuts will drastically increase the number of uninsured children. They will eliminate all the standards of quality that protect children today. The guarantee of prenatal care is gone. The guarantee of hospital care is gone. The guarantee of nursing home care is gone. The guarantee of physician care is gone.

Under the Republican plan, senior citizens and the disabled are on the receiving end of a deadly one-two punch. Deep Medicare cuts, and even deeper cuts in Medicaid. Not only will one in four lose their Medicaid coverage, but they will be victimized by one of the cruellest aspects of the cuts—the elimination of any Federal quality standards for nursing homes.

Strong Federal quality standards for nursing homes were enacted by Congress with solid bipartisan support in 1987, after a series of investigations revealed appalling conditions in nursing homes throughout the Nation and shocking abuse of senior citizens and the disabled.

Elderly patients were often allowed to go uncleaned for days. Lying in their own excrement. They were tied to wheelchairs and beds under conditions that would not be tolerated in any prison in America. Deliberate abuse and violence were used against helpless senior citizens by callous or sadistic attendants. Painful, untreated, and completely avoidable bed sores were found widespread. Patients had been soiled to death in hot baths and showers, or sedated to the point of unconsciousness, or isolated from all aspects of the outside world by fly-by-night nursing home operators bent on profiteering from the misery of their patients.

These conditions, once revealed, shocked the conscience of the Nation. The strong Federal quality standards Congress ended much of this unconscionable abuse and achieved substantial improvements in the quality of care for nursing home residents.
Yet the Republican Medicaid cuts eliminate these Federal standards. It does not modify them. This bill does not reform them. It eliminates them. The House bill even repeals the nursing home ombudsman program that provides an independent check on conditions in nursing homes.

It is difficult to believe that anyone, no matter how extreme their ideology, would take us back to the harsh nursing home conditions before 1987. But that is exactly what the Republican plan will do.

The Republican plan for Medicaid is an outrage. It says that society does not care about the most vulnerable groups in our country—senior citizens, children and people with disabilities. Currently, Medicaid and Medicare is a lifeline for tens of millions of Americans who have nowhere else to turn. Without access to Medicare and Medicaid, many healthy children and many senior citizens will become sick and many will die. This bill can fairly be called The Sick Child and Dead Senior Citizen Act of 1995.

It is wrong, deeply wrong, to put millions of our citizens at much greater risk of illness and death in order to pay for tax breaks and special favors for the wealthy and powerful. Greed is not a family value. Republicans in Congress who intend to vote for these harsh and extreme cuts should think again before they wash their hands of their responsibility for the consequences of their votes.

These Republican proposals are too harsh and too extreme. They are not what the people want. They were given a block grant compared to the Federal system.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, at this time I would yield 10 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri?

Mr. ASHCROFT. Mr. President, thank you very much.

I think it is important to put the reforms that are proposed by the majority into context here and to try and speak about those reforms in rational language, instead of the panic and paranoia that has been expressed regarding those reforms.

It has been represented on the floor of the Senate today that the block grant program for Medicaid as proposed by the Senate is in the best interest of the Medicaid system. I think that is an overstatement by a substantial amount.

Let me just address the issue of what kind of collapse could happen in the event we were to have the block grant program. We began in the State of Missouri, my home State, in which I had the privilege of serving as attorney general for over 8 years, a total of 16 years. During that timeframe we began to use managed care under a special waiver from the Federal Government to deal with the needs of those who needed assistance in regard to their medical needs. And as a result of our experience with that, we have come up with some idea of how much we could do if we were given a block grant compared to what we were able to do under the Federal system.

The PRESIDING OFFICER. Who asks the next question?

Mr. STROMBAK. Mr. President.

The PRESIDING OFFICER. The Senator?

Mr. STROMBAK. Mr. President.

The PRESIDING OFFICER. The Senator?

Mr. STROMBAK. Mr. President.

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The PRESIDING OFFICER. The Senator?

Mr. STROMBAK. Mr. President.

The PRESIDING OFFICER. The Senator?

Mr. STROMBAK. Mr. President.
Mr. ABRAHAM. Thank you, Mr. President.

At this time, I will yield 10 minutes to the Senator from Tennessee. Senator Frist.

Mr. FRIST. Mr. President, I rise to speak against the amendment and in support of the underlying bill before us. I wish to take a few minutes to outline where we are going with Medicaid today. I have had the opportunity to spend time in the private sector on Medicaid, and we have huge challenges there—challenges before me as a physician, before hospitals, before the beneficiaries and groups of people that all too often could fall through a safety net, and, in fact, today are falling through safety nets. Why? Because of excessive and burdensome regulations we put on the States that prevent the States from carrying out their mandate to provide that safety net through this joint Federal and State program called Medicaid.

The program is not working today. In fact, as most people know, only about half of the people who are entitled to benefits are actually served by Medicaid today. It was Gov. Bill Clinton speaking before the House Operations Committee, in December of 1990, who said it, laid it out clearly as clearly as any of us could say it. He said, Medicaid has to be a program with a lot of options and few mandates. Now it is just the opposite.

The problem is that a well-intentioned program—once again, now 30 years old—has layered mandate upon mandate, regulation upon regulation, where we have tied the hands of our regulators, State governments, where we cannot carry out this important goal of serving people who are in need, or who cannot provide for themselves otherwise. The problem is crystal clear.

Again, it is one of these problems which has been laid out before us, which our Governors have told us about, which anybody who has participated in the system at a doctor-patient level, or at a level this Congress could recognize or should recognize. This underlying Republican plan will go a long way toward resolving that problem. The problem is that Federal spending has doubled over the last 5 years. It has doubled the amount of money that is put in from the Federal Government, without any observable improvement in services delivered.

The problem at the State level is that 20 percent, on average, of a State budget now goes to a Medicaid program, and that 20 percent is growing faster and faster, crowding out other State responsibilities.

Third, and probably most important, is the excessive regulation we impose by running this program and micromanaging this program out of Washington, DC, which results in waste, which some resources could be translated into very effective care for populations in need.
Now, the Republican Medicaid plan basically does one thing. It says we cannot micromanage the health care for the populations that have been defined out of Washington, DC. We have failed. We have not been able to control costs, and are only serving about 50 percent of the people under the poverty level.

What we have said overall in this bill is that we are going to give that responsibility to the States, to the people who are closer to home, who can identify the individual needs, strip away the thousands and thousands of regulations which tie the State's hands, and say you address the problem in the way that you see fit. But there are certain ramifications and certain general, broad areas that we say it is important to target.

In this bill we have said that 85 percent of current spending levels for mandatory services are for three distinct populations: One, families with pregnant women or children; two, individuals with disabilities; and, three, the elderly see.

The transformation of Medicaid will be, again, very simple. If we compare the old Medicaid to the new Medicaid program, in the past Medicaid has had an open-ended entitlement. Under the new Medicaid, we will move toward this concept of block grants, allowing States to control their dollars. Under the old Medicaid, we had Federal mandates with micromanagement, coming out of the beltway, out of the bureaucracy here in Washington. And under new Medicaid, we give States the flexibility to design the types of plans they think best identify the needs and meet the needs of their citizens.

Under the old Medicaid, it is expenditures increasing at a rate of about 17 percent a year, again and again. Under the new Medicaid, it will be needs-driven. Under the old Medicaid, there have been unlimited growth trends.

In my State of Tennessee, Medicaid grew by 40 percent just 3 years ago. There is no tax base that can keep up with 40 percent growth. Under the new Medicaid, Medicaid will continue to grow—continue to grow on a base year of 1995, in our particular plan. And grow—continue to grow on a base year of 1995, in our particular plan. and grow away and were given that freedom to carry out a program that they thought best identified and covered the needs.

The number of in-patient hospital days has gone down over time. And the overall budgetary expenditures have been met. In fact, growth there has been flat. But the exciting thing is that the quality of care has increased by overall objective standards and, not only that, the number of people covered has been markedly increased.

In 1995, before this reform plan, if you took the overall population of Tennessee, coverage was 89 percent. By using those federal dollars sent to the State more wisely, more effectively, with all of the Government regulations stripped away, we were able to improve our overall coverage for all people across Tennessee from 89 percent to 94 percent.

So when you hear that by giving States more flexibility in some way, decreasing access, you can look to Tennessee and say that we are one State that had regulations stripped away and were given that freedom to carry out a program that they thought best identified and covered the needs, and we were able to improve access across the State from 89 percent to 94 percent.

If we look at overall expenditures by allowing one State the flexibility to carry out their program, stripped away of the Federal regulations, we can see, when you compare Medicaid versus the new program called TennCare, which is in yellow here, the overall Medicaid projections growing at 20 percent a year, which are in the color red. The year is along the axis here. Starting from 1997, 1995 to 1998, we can see we had this progressive growth up until 1995. If we had done nothing in Tennessee, the growth would have continued at 20 percent a year. But having an element of coordinated care, growth has been slowed down there. This has translated into savings for the American people, again, with good quality of care, and expanded coverage, in terms of the number of people covered.

So the final question is: Why can everybody not do what Tennessee did? Well, Oregon might want a different type of system; Hawaii might want another type of system; Missouri might want another system. Let us let people closer to home decide that, but we have to strip away the regulations.

In addition, the other comment might be well, why cannot people get waivers like Tennessee did—and I participated in that process so I can tell you it is a huge burden to get the waivers.

In fact, on September 22, in a letter sent to the commissioner of the department of finance and administration in Nashville, TN, there are another 9 pages of terms and conditions for Tennessee to try to adhere under. We would do away with those regulations under the Medicaid proposal.

For all these reasons, I support the underlying bill and speak against the proposal amendment. Mr. GRAHAM, I yield 2 minutes to the Senator from California.

Mrs. BOXER. Mr. President, I cleared it with the managers that I can have 2 minutes off bill debate time and I ask unanimous consent that I be allowed to do that.

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

Mrs. BOXER. Thank you, Mr. President, I will speak to this issue for 4 minutes.

Mr. President, today we learned on the news that America is finally getting it. Mr. President, 57 percent of the people in the latest national poll say that the Republicans are gutting Medicare to pay for a tax cut for the rich.

It has taken awhile for the message to come through but people are waking up to the truth. The Republicans are gutting Medicare. They are gutting Medicaid. They are raising taxes on those who earn less than $30,000 a year to help fund a tax break for the wealthiest Americans. Those who earn over $500,000 a year do just great.

By the way, if you are one of those lucky people to have a $5 million estate, pop open that champagne because unless we Democrats prevail you are going to get millions of dollars back.

Today, the Senator from Florida is giving all Members a chance to modify this radical and extreme budget as it relates to Medicaid.

I have listened very carefully to Senator Frist, to Senator Ashcroft, and neither of them address the main issue addressed in this amendment, which is the devastating nature of these cuts, the very size of these cuts.

Let me put it into perspective. In America today, the Medicaid Program costs $180 billion a year. The Republicans want to cut $187 billion out of that. That is 2 years—more than 2 years of expenditures of the Medicaid program over a 7-year period. They are cutting 2 years of Medicaid out of 7 years.

I ask, as a person who works for a living, over a 7-year period, could you afford to be unemployed for 2 years?
Could you afford to lose that much income and pull your family together? I think it is clear that the answer is no. Do you know what the cuts mean to California? Mr. President, $18 billion. Millions of children will not be served. Millions of working poor will not be served. Emergency, Mr. President, your program will close. Trauma centers will close.

My friends say, oh, there is so much room to be more efficient. California is the most efficient in the Nation. How do you get efficiency out of a system that is already the most efficient?

The answer is that people will be kicked off the program. Who are these people who are on Medicaid? We should look at them. Who are these people on Medicaid? They are the disabled people among us, the most disabled children among us—children with spina bifida, children with cystic fibrosis. They are the working poor who cannot go without. They are the down and out who maybe lost their job and need help.

By the way, they are the seniors. Two-thirds of the seniors in nursing homes are on Medicaid. I do not know if there is going to be a nursing homes cut, but buried in this bill is a provision to repeal national standards for nursing homes. We are not only cutting all of this, we are gutting the standards.

Now, I heard Senator ROTH. the distinguished chairman of the Finance Committee, on the radio this morning saying, "These Democrats, they do not want change. They want the same old thing." I want to respond to that. We Democrats want change, but there is a difference. We want good change. We want change that is good for America.

President Clinton has a record of change—more jobs, less unemployment. AmeriCorps, lower deficit for the first time 3 years in a row since Harry Truman. I would like to see this kind of change.

This is evil change. This is bad change. This is greedy change. Support our friend from Florida.

The fact is, Mr. President, the Senator from California spoke as if there were going to be decreases in the amount of funding.

I think it is important to just call to the attention of the American people what we refer to as cuts here in Washington we are referring to cuts in the amount of increase. We are not going to take 2 years out of the funding of the next 7 years. We are going to reduce the level of increase. We will still have a 40-percent increase in the amount of resource available. It is important that we define the situation correctly that middle-class people would normally use. In that respect, we have a 40-percent increase in funding.

Mrs. BOXER. Will the Senator yield on that point?

Mr. ASHCROFT. Your comment referred to my argument and I choose not to yield.

The second thing that the Senator from California said: how can you get a system more efficient? I think it is clear, we allow States to develop the efficiencies that provide for as much as a 50 percent increase in the delivery of services.

The fact of the matter is, that is what has been shown in the pilot projects in Missouri. Our director of Medicaid says that if he could just get the Federal regs he could move from 600,000 people to 900,000 people with the same amount of money. That is how you get more efficient—take the onerous one-size-fits-all Federal Government out of any of the picture.

I yield 6 minutes of our remaining time to the Senator from Wyoming. The PRESIDING OFFICER (Mr. FRIST). The Senator from Wyoming.

Mr. THOMAS. Mr. President, would it not be interesting to see some kind of out-of-touch observer and walk out and listen to the last day or so, the conversation. It is not a debate. It is posturing conversation.

"Just a million and listened. It would be pretty hard to follow. It would be pretty hard to try and establish from listening here what the goals were and what the purpose was, particularly our friends on the other side of the aisle.

I think you have to conclude certainly we are not all coming from the same base of facts. I think you have to conclude that in some cases there is even any common goals that are being pursued on that side of the aisle.

I think you would have to conclude there is quite a different philosophy—a philosophy of maintaining the status quo, of attacking the proposals without any particular plan, to continue the growth of Government and the size of spending. That would have to be the goal that you would assume from the conversation.

You would be confused when you hear constantly time after time this idea that you are reducing Medicare so that we can increase tax cuts.

The fact of the matter is that part A of Medicare is financed by withholding from wages. It goes into a trust fund. You have two choices when it is growing at 10.5 percent. You can either do something about the cost and reduce that rate of growth or you can add more to the withholding.

I do not hear that proposition being done. Those are the choices. It has nothing to do with taxes. It has nothing to do with balancing the budget. If the balanced budget was not in the picture, you would be talking about how do you take care of part A in Medicare. You do not hear that. That is a fact. That is a fact.

You can probably balance the budget it we stop using all the charts that we have out here, for one thing.

We do have a plan. The Republicans do have a plan. The plan is to balance the budget instead of more debt. A responsible thing we need to do for our kids as we go into another century. We have a plan to have some middle-class tax cuts instead of increasing—the largest increase we ever had—like last year.

I hope we get on into this earned-income tax credit. This 50 percent of people's taxes going up. That is just not the case. You might be reducing some of the payments that have been going under earned-income taxes—it is not increasing taxes. We know that.

We ought to be talking about Medicare solvency. That is what our purpose is. We ought to be talking about jobs and opportunity, instead of welfare dependency. That is what we are talking about here, making some changes that have not been made for years. My friends start by saying yes, we need changes and then resist them. That has become the pattern here.

Let me tell you just a little bit about Medicaid in Wyoming. Republicans surely have taken a historic approach to it. In Wyoming, spending will rise on Medicaid from $110 million in 1996 to $119 million in 2002. That is not really a cut, is it? On a per capita basis, the average Federal grant for each person in poverty will grow from $2,188 to $2,283, hardly a cut.

Certainly we need more flexibility. We have heard from some of the former Governors. We heard, of course, from the Governors in the States who say give us more flexibility and we can take these dollars and more effectively run the program. The Governors have asked for more flexibility. The Republican bill mandates benefits for low-income pregnant women. Children up to 12, elderly and disabled as defined by the State—those are mandates that are there that, indeed, some of the Governors are objecting to.

Medicaid, as the Senator from Tennessee indicated, has exploded in terms of its growth rate; an annual rate of 19.1 percent between 1989 and 1994. You cannot sustain that kind of growth. So you need to look for ways to deliver the system to deal with the core problems and that is helping to reduce the core problems and that is helping the States to shape their programs. The program in Wyoming for the delivery of Medicaid needs to be quite different than the program in West Virginia or Massachusetts, and we need the flexibility to do that.

So, Mr. President, we have talked about the benefits. States will meet a minimum spending level of Medicaid. For low-income pregnant women, children up to 12, elderly and disabled as defined by the State. States will be required to spend at least 85 percent of the amount they spend in 1995. They will be allowed to pursue other programs like AFDC and Food Stamps if they choose. to put together a package of benefits.

Regarding nursing home standards, the committee responded to the Governor's requests by giving them authority to write standards under Federal guidelines. States must establish and maintain standards for quality care, which must be promulgated.
through their State legislatures—people, I suppose, who have no caring for the elderly. I do not believe that. Most of you have served in State legislatures. Do not tell me the States do not care. I cannot believe what I hear from time to time.

So, we do need to make changes if we want to continue to have a program that delivers services. That is what it is all about. I think we ought to take a little look at the long-term goals and the breadth of the goals that are in this bill. They have to do with balancing the budget. They have to do with job opportunities. They have to do with dealing with some of the problems which have brought us to where we are.

I really wish we could talk just a little bit more about the facts. For instance, this tax business that we hear every time someone stands up. Tell me a little bit about part A of Medicare and a tax offset. I would like to know more about that.

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

Mr. THOMPSON. I yield the floor.

Mr. GRAHAM. Mr. President. I yield 90 seconds to the Senator from Alabama.

Mr. HEFLIN. Mr. President. I want to make a few remarks about the effects of the proposal to reduce projected Medicaid expenditures by over $186 billion over 7 years on those in Alabama—poor mothers and children, the disabled, and the elderly—who count on Medicaid for their medical and long-term care.

First, and most importantly, the Republicans proposal, if adopted, would immediately place the Alabama Medicaid Program in a state of utter chaos. It would place a gun to the head of the Governor and State legislature. They would be forced to make immediate, savage cuts—about 21 percent—in the program. Over $3 billion would have to be imposed the current fiscal year, starting in the second quarter of the year.

Let me be very clear about this. These cuts would be imposed on the Medicaid budget that has been in effect since October 1, 1995. The only alternative available to these cuts would be an immediate major increase in taxes on the poor people of Alabama. This would not happen given the “no new taxes” pledge of our Republican Governor.

My second observation is that this sudden cut is only part of the almost $3 billion hit the Republican bill would impose on Alabama. I know the other side claims that Alabama and other States can easily handle these cuts by achieving greater efficiencies in the programs. They can, and I can tell you how. They can cut corners to off the program by restricting eligibility. For those who remain, access to care can be cut by simply reducing payments to providers, doctors, hospitals, and nursing homes, below the costs of their services. At that point, these services will no longer be available.

Finally, Mr. President, our Republican colleagues repeatedly assert that all of these cuts are not real, they are simply reductions in the rate of increase. Hospital and medical facilities have really had an opportunity to examine the details of the bill. We find that in some important instances this is simply not the case. For example, the Medicaid programs going to hospitals that care for a disproportionate share of patients that do not have insurance or other means to pay for care are reduced immediately by 56 percent. I repeat. this is a real cut of $185 million. According to Dr. Claude Bennett, President of UAB, almost 30 percent of Alabamians are medically indigent and responsibility for providing care to them falls largely upon their University Hospital. Dr. Bennett is correctly concerned that it can continue to shoulder this burden which will surely increase in the face of these cuts.

Now, I know, Mr. President, that in the backrooms the majority is continuing to cut, cut, cut, to fit this disaster. States are pitted against States. If Alabama gets its situation improved, which it must, the poor in some other States will suffer. The bottom line is this—these Medicaid cuts are simply too much, too soon. Our State will not be able to cope without hurting people. We must rethink what we are doing.

REAL FAMILIES VERSUS REPUBLICAN RHETORIC

Mr. ROCKEFELLER. Mr. President, Republican rhetoric is that working families will be helped, but I question if this will be true for real families in West Virginia.

This Republican package seeks to cut Medicaid funding by a whopping $187 billion over 7 years. But people deserve to understand what such harsh cuts mean. No less than pregnant women, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?

Coming from West Virginia, when I think of a family, I think about the children, parents, and grandparents. What happens to parents struggling to balance raising children and caring for aging parents?

If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family? The child tax credit is $500 a year for some families lucky enough to qualify, but the loss of Medicaid nursing home coverage will cost those same families $10 000 to $30 000 a year.

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer’s disease as long as she could at home. But as her mother’s illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother’s meager savings are exhausted, Julie and her family will be much, much worse off. The child tax credit will not cover even a month of nursing home care for her mother.

This is real story about a family hurt not helped by this package.

In my State of West Virginia, over 21 percent of our residents rely on Medicaid. And I worry about what will happen to them and the health care system in this disaster. States are pitted against States. If my State gets its situation improved, which it must, it tries to absorb more than $4 billion in cuts—West Virginia simply cannot afford this.

A headline from the Charleston Daily Mail last week reads: “[Medicaid] Cuts May Affect Infant Mortality.”

This catches one’s attention. It demands closer scrutiny and careful thought. The article reports:

With the help of Medicaid-funded programs, West Virginia’s infant mortality death rate decreased from 18.4 deaths per 1,000 in 1975 to 6.2 deaths per 1,000 in 1994, better than the national rate of 8.0 deaths per 1,000 births.

Medicaid has greatly increased poor women’s opportunities to get medical care, said Phil Edwards, the administrative assistant for the Bureau of Public Health’s Division of Women’s Services. “By making them eligible, they go in for prenatal care earlier than they otherwise would, says Edwards. ‘Every dollar you spend on this side of prevention, you save four on the other side where you don’t have to treat an at-risk patient.” Diane Kopcial of the state maternal and child health office said.

Mr. President. I believe this article should make us all stop and think before we impose such cuts in Medicaid. Do we really want to jeopardize nursing home care for seniors? Do we really want to slide backward on infant mortality?

I do not want to go backward. I understand that Medicaid needs reform and our amendment recognizes that there are responsible ways to reduce the rate of growth in Medicaid spending. But we should not throw seniors and nursing homes, very poor mothers access to prenatal care and possibly return to times when we infant mortality rate rivals some Third World countries, or turn our backs on the disabled.

We should think about the real families in West Virginia and cross this country who depend on Medicaid for basic, vital health care.

Mr. President. I ask unanimous consent that the full article from the Charleston Daily Mail, be printed in the RECORD.

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

[From the Charleston Daily Mail. Oct. 20, 1995]

CUTS MAY AFFECT INFANT MORTALITY

The state Medicaid crisis, the state’s infant mortality crisis began wrapping up its work as health officials expressed concern that federal cuts in the program could reverse progress the state has made reducing infant deaths.
The panel appointed by Gov. Gaston Caperton will recommend ways to cut $200 million out of the Medicaid program this year to balance the budget. It recommend long-term changes that should prepare the program to handle likely federal cuts. Medicaid is a health care program for the poor and disabled. The federal government pays 75 percent of the cost and the state pays the rent.

In a recent letter to Members of the House of Representatives, the governor, who when in office pays $7.2 billion of the $21.8 billion spent on Medicaid, said, "we are going to cut Medicaid and then lower the eligibility."

Medicaid cuts would eliminate this guarantee and cut basic health care. The Republican plan endangers the future health, well being, and productivity of millions of low-income pregnant women, poor children, and disabled Americans. It jeopardizes the health of the elderly. The omission of the elderly from the proposed re- structuring will trickle down to counties in the form of flexibility to raise property taxes, cut other necessary services or further reduce staff.

The Republican plan endangers the future health, well being, and productivity of millions of low-income pregnant women, poor children, and disabled Americans. It jeopardizes the health of the elderly. The omission of the elderly from the proposed restructuring will trickle down to counties in the form of flexibility to raise property taxes, cut other necessary services or further reduce staff.

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To go to the funeral home the state inspector July the 7th, 1984. When I was getting ready, but without a view, such a proposal is mean spirited retaliation. He promised confidentiality and I was shocked to find that the procedure had been performed at the nursing home instead of the hospital. Given the seriousness of the bed sores, she must have been in agony. But when I asked what they could do for the pain, I was told: "Tylenol is all we can give." I thought mother probably would have gone into shock. But, in any event, she died two days later on July 7th, 1984.
October 26, 1995

CONGRESSIONAL RECORD — SENATE

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keep your home, you can keep assets up to $15,000, and the spouse at home can have an income of up to $1,000 a month. So, I’m glad that this won’t be repealed, and I want to make sure that nobody is afraid of that. I want all Senators to know that in this regard, we’ve done well by the American people.

Unfortunately, I cannot say the same for the rest of the bill. In this legislation we are repealing nursing home standards, which are crucial to our health and safety.

Some nursing home residents have been treated in conditions which are worse than prisons. Worse than prisons! In 1987 Senator Pryor led thecharge to enact the standards which now protect nursing home residents. He’s still leading that charge, and I thank him for that.

Now we want to repeal those standards? Not this Senator. I will not, under any circumstance, allow anyone in this body to put the lives of men like my father at risk.

Saying “yes” to this amendment says yes to keeping promises, it tells our seniors, our children and the disabled that we care about their well-being. That we will help them if they’ve played by the rules and if they’ve kept their promise to help themselves. And that we will not let those few nursing home profiteers put them at risk in the name of turning a buck. I urge my colleagues to support this amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to support the amendment offered by Senator GRAHAM.

The bill before us creates a Medicaid block grant, a blank check, to States with virtually no rules, no specified benefits, no rules of eligibility.

The amendment would retain the current Medicaid Program, but impose a spending limit on individual recipients. This approach would hold down cost increases without undermining Medicaid as a health insurance program.

NURSING HOME CARE

Medicaid provides 70 percent of hospital care to the poor in my State. Of total Medicaid dollars, over 59 percent is spent on the elderly and disabled and 41 percent to families.

One million Americans are infected with HIV/AIDS. In California, there are over 150,000. Medicaid provides health insurance for 40 percent of all people with HIV/AIDS, including 90 percent of all HIV-infected children. In California, Medicaid pays for 59 percent of all HIV/AIDS cases, and pays for 55 percent of HIV-related public hospital care and 41 percent of private hospital care.

In my State, Medicaid paid $719 million for emergency services for illegal immigrants, last year, according to the California Department of Health Services.

Medicaid is a fundamental public health safety net in California. Insuring elderly and disabled residents, serving the uninsured rate is as high as 33 percent. Base closures and realignments have presented a major challenge to the State’s children’s hospitals. At Oakland Children’s Hospital, at pays for 70 percent.

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Medicaid is a fundamental public health safety net in California. Insuring elderly and disabled residents, serving the uninsured rate is as high as 33 percent. Base closures and realignments have presented a major challenge to the State’s children’s hospitals. At Oakland Children’s Hospital, at pays for 70 percent.
I oppose the committee bill. I commend my colleague from Florida for his amendment and I support him.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield the Senator from Washington 2 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Florida for this very important amendment he has brought before us today. It seems, so often when we come out on the Senate floor, we get caught up in the charts and graphs and "Senatese" terms that we hear so often and we forget what we are doing affects very real people and very real families across this country. I want to talk about one of those very real people. He is a young child. He is 21 months old. He lives in my State. His mother wrote me a desperate letter saying, "Please do not take away Medicaid.

Her son, Abe, was born with a severe medical disorder. He needs a modified ventilator to breathe 22 out of every 24 hours. In his short 21 months, he has had many surgeries to help put fingers on his hands, to help him breathe, to help him live. His mother said, without Medicaid, Abe would not be here.

This mother is desperate because she knows, as all of us do, that if we change the way in the way that is being proposed by the Republicans, she will have to fight for Medicaid coverage with everyone else in my State, who is desperately going to be looking for help. It is very likely that Abe will not have his ventilator once this goes to our States.

I went out and I talked to hundreds of parents in my State who have children at Children's Orthopedic Hospital in Detroit. Parents who did not expect to have a child with a severe medical disorder. They did not expect to have a child with asthma, who was in the hospital every other week. They did not expect to have a child who was institutionalized because of leukemia. And they did not expect that they would have to quit their job to stay home and take care of that child. They did not expect that their own medical insurance would run out, within a very short time because of the limits on insurance. And they never expected to have to turn to the Federal Government to ask for help.

But I can tell you everyone of those parents needs our help and this amendment will send that assurance back to them. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. ABRAHAM. Mr. President, how much time is left on each side?

The PRESIDING OFFICER. Two minutes for the Senator from Michigan and 7 minutes and 30 seconds for the Senator from Florida.

Mr. ABRAHAM. I would prefer not to use our 2 minutes at this point.

Mr. GRAHAM. Mr. President, I ask unanimous consent that off of the general debate on the bill there be 3 minutes yielded, one of which will be yielded to the Senator from Wisconsin as well as 1 minute for debate of this motion.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Florida and I thank the Chair. We do not make changes very quickly. I am very concerned that older people in our society are going to get the message from this budget that we have changed our attitude toward their contributions in building this society. What other impression are seniors citizens supposed to get, when a huge percentage of balancing the budget is based on enormous, and I think in many cases, unjustified, changes in Medicare, changes that will increase the premiums of seniors in this country well beyond what they would have been.

Equally bad is something that is being discussed, as we sit here today, over in the Senate Aging Committee, namely the completely unjustified elimination of the Federal nursing home regulations from OBRA 1987. What fiscal or other justification is there for saying to older people who now must be in a nursing home after a hard life, a lifetime of work and contribution to country and family, that we are not going to be sure of the minimal level that people are protected from unhealthy and unsafe conditions?

Those of my colleagues who served in State legislatures, or served as Governors and legislators from both parties supported the effort—we made an effort in Wisconsin with everyone else in my State to sustain prudently.

And, Mr. President, if they have any realization that unless significant rewrites were yielded for my close.

Mr. President, the results have been dramatic. Between 1980 and 1993, while Medicaid nursing home use increased by 47 percent nationally, in Wisconsin Medicaid nursing home use actually dropped 15 percent.

Mr. President, long-term care reform is the key to taming our Medicaid budget. But that is not the route pursued in this bill.

Instead of a comprehensive reform that would help States cope with the growing population of those needing long-term care services, this bill cuts and runs.

It cuts the Federal Government's share of this growing burden by 182 billion over the next 7 years. It runs away from the problem of a mushrooming population needing long-term care by block granting the problem and dumping it all in the laps of State policymakers.

Mr. President, this is a prescription for disaster.

For 30 years, States have made policy decisions based on rules. Based on those rules, over those 30 years an infrastructure of long-term care has evolved that is heavily skewed toward expensive, institutional care. That was not by accident.

The system that developed in that time produced the incentives that resulted in this institutional bias. But, Mr. President, that infrastructure cannot change overnight. And it certainly will not change simply because the Federal Government slashes funding and runs away from the problem.

Just the opposite is likely to happen. Today, Medicaid is essentially a provider entitlement.

Providers of specific services are funded, and that infrastructure, which has been so influential at both the State and Federal level in writing the rules which produced the system we have today, is not going to disappear.

That skewed infrastructure is well situated at the State level to win the fight for the pool of resources this bill greatly reduces.

This bill is not reform; it merely makes a flawed situation even worse. The same problems that exist in Medicaid today will exist under this bill.

Mr. President, I urge my colleagues to support this motion to commit, and let the Finance Committee craft a product that will let States wear themselves off of their addiction to expensive institutional services and instead move toward helping families keep their disabled loved ones at home, utilizing consumer-oriented and consumer-directed home and community based care. So I hope we support the Graham amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I wish to reserve the balance of our time including the additional 5 minutes which were yielded for my close.
I yield to the Senator from Michigan for any final debate in opposition to the motion.

Mr. ABRAHAM addressed the Chair.

Mr. PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself 1 minute just to recapitulate the point that has been made on our side in the last hour of debate.

One of the things that came up is that if States are given the kind of flexibility that has in part been given for waivers to run Medicaid Programs, they can bring down the rate of growth of these programs far more effectively than a Federal bureaucracy in Washington; that, indeed, the growth rates are growth rates that decrease but grow in spending that has been outlined in the reconciliation bill can still provide the kinds of benefits that all of us want to see for our citizens, if we let the States, the people closest to those in need, run these systems.

In my State of Michigan, our Governor, our legislature, and our department of social services insist that they can make our program even more efficient at the rate of growth that is proposed in this legislation if they are simply given the opportunity to do so. We have come to a point when health care costs are skyrocketing in the public sector, but they are being brought under control in the private sector through such things as competition and other market factors.

If we give the States the chance to do some of the same things this legislation does, that is the reason we have included this approach and State flexibility in the reconciliation package.

At this point, I yield the remainder of our time to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to have printed in the Record an article from the St. Louis Post-Dispatch from January 31, 1995, which bears testimony to the fact that—

Missouri also wants to start a managed care system for its 600,000 Medicaid recipients. It would use the money saved to provide medical coverage to another 300,000 Missourians who do not qualify for Medicaid coverage now and who also cannot afford insurance.

So it would really provide insurance for about half of the individuals who currently are uninsured in the State. That is what the promise of this potential is.

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

From the St. Louis Post-Dispatch

GOP PLAN MAY LET MISSOURI ALTER MEDICAID WAIVERS TO ALLOW COVERAGE OF HALF OF STATE'S UNSURED

(By Kathleen Best)

A promise by congressional Republicans to give the states more flexibility could help Missouri win federal approval of a dramatic shift in the way it provides medical services to its poor.

"If this is a request for state flexibility, it is in line with the Republican agenda," said Donna Cheekett, director of the Missouri Division of Medical Services.

Missouri wants a waiver of federal regulations that would allow it to rein in the cost of providing medical services to the poor and not only keep but expand its public insurance programs; it includes about half of the state's uninsured.

Health care for the poor would be provided through a new, managed-care system designed to hold down costs by, for example, encouraging people to seek treatment from family doctors, rather than going to emergency rooms, which are more expensive.

The state would contract with doctors, hospitals and health maintenance organizations to care for the state's 600,000 Medicaid recipients. In addition, Missourians who now earn too much to qualify for Medicaid but too little to buy into the state-run program at reduced rates.

State officials estimate that this provision would result in health insurance coverage for 300,000 people who cannot afford it today, according to the state's health department.

This provision referred to is one which could have Federal regulations and allow the State to design its own program.

I thank the Chair.

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

By Kathleen Best

A promise by congressional Republicans to give the states more flexibility could help Missouri win federal approval of a dramatic shift in the way it provides medical services to its poor.

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State officials estimate that this provision would result in health insurance coverage for...
300,000 people who cannot afford it today—about half of Missouri's uninsured.

Before Missouri can put the new system in place, it needs approval from the U.S. Department of Health and Human Services. With the federal purse strings, department officials are likely to be encouraged to look favorably on such waiver requests.

Missouri made its formal application for a waiver last summer and is now answering questions about its proposal.

Checkett said the most nettlesome problems resolve around how to provide care for poor people with chronic mental illness.

"There is a lot of questions—both from the Washington in the state in terms of whether individuals who are chronically mentally ill should go into managed care," she said.

"We're concerned about how to balance the protections we need to provide for (the mentally ill) with cost control.

"The mentally ill tend to need lots of expensive medical care. But the nature of their illness often makes managing that care nearly impossible," Checkett said. "If you were to poll other states, you would find this issue of how to treat individuals with chronic mental illness is the hardest problem I've ever worked on."

A final decision on the mental illness question will be made by Gov. Mel Carnahan and is expected by Jan. 15 when the state plans to present its answers to 259 questions posed by federal regulators.

Checkett said the other difficult questions on the list centered on how the state would provide managed care in rural areas of Missouri, where there are few doctors and fewer opportunities to impose control.

"There are questions we have ourselves and are working on," she said. "We hope we will be able to pay better rates for primary care in the rural health care system, which would encourage more doctors to take on more Medicaid recipients."

Some doctors in rural areas now limit the number of poor patients they will see because the state pays proportionately higher rates for treating the poor at hospitals and in other institutions.

"Now, we spend $2.5 billion a year with a heavy bias toward institutional settings," she said. "We want to change that."

Checkett said she hoped that if all the answers are submitted by mid-January, the state can begin negotiating details of final answers. The schedule would coincide with a review by the Missouri Legislature. Legislators must appropriate the funds to pay for the revamped program.

But the same Republican majority in Washington that may make it easier for the state to get its waiver may also throw a wrench into carrying out such plans.

Congress has already begun talking about major changes in Medicaid and welfare funding, which could force Missouri back to the drawing board.

"I am just looking at Medicaid, that there will be serious discussion about entitlement caps," Checkett said. "I don't know what it means."

The PRESIDING OFFICER. Who yields the floor, Mr. ASHCROFT. Mr. President, I ask unanimous consent that an editorial which appeared in the St. Louis Post Dispatch entitled "Missouri's Wise Shift to HMO's" be printed in the RECORD.

It states, in part:

"The Carnahan administration made the right move in deciding to use HMOs to provide medical care for the 154,000 St. Louis area residents eligible for Medicaid. Other states worked on for years to get HMOs. The state now has them.

"The potential of a waiver is similar to what we would have in a block grant.

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

[From the St. Louis Post Dispatch, Oct. 14, 1995]

MISSOURI'S WISE SHIFT TO HMO'S

Regional Medical Center appears to have won big in Missouri's decision to shift all Medicaid recipients in the St. Louis area into health maintenance organizations. The state itself is a winner, too.

The Carnahan administration made the right move in deciding to use HMOs to provide medical care for the 154,000 St. Louis area residents eligible for Medicaid. Other states worked on for years to get HMOs. The state now has them.

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Fiscal year 1995 for HMO enrollees was $11.6 million in the first 12 months. That last month began enrolling St. Louis Medicaid members in private managed care plans.

In a speech to a national conference of the Health Industry Manufacturers Association at Loswer Vanderbilt Plaza Hotel, Hertick cited several strengths of the Missouri plan to treat health care to the poor at a contained cost. Among them: Missouri initiated its plan in just one area, rather than throughout the entire state.

It put the managed care contracts out for bid.

It prohibited marketing of the private plans, directly to Medicaid beneficiaries.

A neutral company will gather data from each plan and distribute the information to Medicaid members for use in making their selection.

Missouri geared its plan only to the poor, beginning with people in the Aid to Families with Dependent Children program.

By contrast, TennCare began in January 1994 covering both the poor and uninsured statewide, at predetermined rates with aggressive marketing to Medicaid members. As a consequence, the $3.1 billion program serving 1.1 million residents started with great confusion among its members, with griping by providers whose reimbursements were slashed and with some apparently improper member-recruitment practices by at least one private health plan.

Hertick told the privatization of Medicaid "the biggest thing in managed care in the past 15 years" and one of several trends reversing the traditional trend toward privatizing Medicaid, he forecast that market leverage increasingly will shift back toward the public sector and away from hospitals and other providers, such as home health, which traditionally have received a majority of their payments directly from patients.

"The most obvious trend facing managed care organizations is the wave of
mergers and acquisitions. But Hertik said this trend differs from consolidation waves in other industries that frequently are sparked by efforts to achieve operating efficiencies from such things as volume buying and streamlining redundant services. "All of this is aimed at market leverage, rather than just economics," he said.

The deal, including health maintenance organizations buying traditional indemnity insurers, are intended to increase the membership in local managed care plans. "This is the second time on a national scale and strong balance sheets don't necessarily make you the high-quality, low-cost provider in local markets where the purchasing decisions are made," he said. "It's just a little troubling knowing that its market leverage at the base of this consolidation."

Hertik also identified two other trends:

The reaching of "an inflection point" heralding "price competition as more the rule of the day" instead of boom-and-bust cycles in health insurance underwriting.

An emphasis by managed care companies in managing care, rather than just costs, by extracting clinical guidelines, practicing disease management and measuring outcomes.

The PRESIDING OFFICER. Who yields up the floor? Mr. GRAHAM. Mr. President, has the Senator from Michigan, and 7 minutes and 30 seconds remaining for the Senator from Florida.

Mr. ABRAHAM. Mr. President, I yield the remainder of my 14 minutes.

Mr. GRAHAM. Mr. President, this is time we received, 3 minutes of general debate and 1 minute which was used by the Senator from Wisconsin. And I ask for the other 2 minutes, as well as the balance of our time on this amendment for my closing remarks.

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

Mr. GRAHAM. Thank you. Mr. President.

Mr. President, it has been an illuminating debate but almost as illuminating by what has not been said as what has been said.

What is some of the things that have been omitted? One of the major omissions is, how did the majority party arrive at the figure of $187 billion as the basis of its reduction in Medicaid expenditures by the Federal Government over the next 7 years? What was the source of that number? How was the calculation of the efficiencies and flexibilities that were going to be incorporated into the program, and used to derive the ultimate number of $187 billion?

The reason that there has not been an answer to that question is because there is no question. The $187 billion was derived, not by a rational assessment of what would be the needs of the program or what will be the per capita increase in costs in delivering health care, but rather as a means of deriving a set of dollars to fund a tax cut for the wealthiest of Americans.

The fact is that the Medicaid Program has been operating at a per capita level of expenditure less than the national average in terms of all private sector health care spending. 7.1 percent in 1994, 7.7 percent in 1992, 7.5 percent in Medicaid. This is what has been the level of the Medicaid expenditure per capita. Under this bill, the proposal is to slash Medicaid from a 7 percent growth to a 1.4 percent growth. Mr. President, I would defy anyone to say that is not going to result in a significant collapse of the Medicaid system's ability to serve the most vulnerable population in our country.

The second question that has not been discussed is, why has the Medicaid Program been growing at the rate that it has been growing?

Let me suggest three reasons, one that we ought to be very proud of, and that is that we are doing as a Nation a much better job of helping the poorest and most at risk of our children. Infant mortality in the United States has dropped by over 21 percent in the last decade. In America, infant mortality has dropped by over 21 percent in the last decade. We ought to be proud about that, and it has occurred because in large part we have extended Medicaid coverage to more and more at-risk mothers, and we have provided the kind of appropriate health care immediately after birth. We should not be ashamed of that.

Second, Medicaid has increased because of the aging of Americans. What has not been pointed out is that 60 percent of the Medicaid expenditures do not go to poor children and their mothers. Sixty percent of the expenditures go to the disabled and particularly to the frail elderly. In my State, 70 percent of Medicaid expenditures go to the disabled and the frail elderly.

That happens to be the segment of our population which is growing at the fastest rate, and the fastest growing generational component of the population is people who are over the age of 80—the very population that is most likely to need Medicaid assistance.

The third reason for the increase in the number of persons on Medicaid has been the decline in private insurance coverage particularly for children. In 1977, 71 percent of the children of working Americans had their health care covered through their working parents. Today, in 1993, that number is down to 57 percent and projected in the year 2000 to be 37 percent. There has been an almost a 1-to-1 increase in the poor children on Medicaid as there has been a decline in poor children covered through a parent's health care policy.

Those are the three reasons why Medicaid has been increasing over the last few years, not because of oppressive Federal regulations.

Another thing that has not been discussed in the funding formula is, why would you like to see the allocation formula among the States? There it is. That is the arithmetic allocation formula contained in the Republicans' Medicaid proposal.

This formula, when you get through all the algebra, says that those States which today are receiving 4 and 5 times as much per capita as other States will continue to receive 4 and 5 times as much. We are seeing a pattern. We saw it in welfare reform and now we are seeing it in Medicaid. And that is identify the problem, decry the status quo, and then retain the funding formula of the current program. We did it in welfare reform, and we are about to do it again in Medicaid.

It would be like George Washington, after having won the American Revolution, saying, "but we are going to continue to pay tribute to George III." The very reason that we fought the war would have been forgotten.

Mr. President, we need to have a funding formula that treats all Americans fairly wherever they live. This bill of the Republicans continues basically the current funding formula into the indefinite future. Is that going to be lost under the Republican proposal? We are going to lose the flexibility of an effective State-Federal partnership—those States that experience growth, those States that experience economic decline, those States that experience a natural disaster. We had 12,000 people added to the Medicaid role in Florida within days after Hurricane Andrew because not only were their homes blown away, their jobs were blown away and they became eligible for Medicaid. And they needed it because of the disaster through which they just lived. That flexibility is going to be lost in this program. We are also going to lose the adequate funding of a Federal partner, and we are going to lose national standards particularly in the area of nursing homes.

It is not surprising that President Reagan said that the Medicaid Program should not be turned over to the States but that the Medicaid Program should be federalized in order to have a national standard of health care. "Will the very reason that we fought the war be lost under the Republican proposal? We are going to lose the flexibility of an effective State-Federal partnership—those States that experience growth, those States that experience economic decline, those States that experience a natural disaster. We had 12,000 people added to the Medicaid role in Florida within days after Hurricane Andrew because not only were their homes blown away, their jobs were blown away and they became eligible for Medicaid. And they needed it because of the disaster through which they just lived. That flexibility is going to be lost in this program. We are also going to lose the adequate funding of a Federal partner, and we are going to lose national standards particularly in the area of nursing homes."

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I close by saying there is a better way. We are proposing in this motion, first, that we have a rational reduction in Medicaid. What we essentially are saying is that we will propose to restrain Medicaid to grow no less than the private sector rate of growth in health care spending. And with that 1 percent restraint, that is, that the per capita for Medicaid will be 6 percent restraint, that is, that the per capita for Medicaid will be 6 percent in the year 1995, 6 percent in the year 1996, 6 percent in the year 1997, 6 percent in the year 1998, 6 percent in the year 1999, 6 percent in the year 2000, 6 percent in the year 2001, 6 percent in the year 2002, 6 percent in the year 2003, 6 percent in the year 2004, 6 percent in the year 2005, 6 percent in the year 2006, 6 percent in the year 2007, 6 percent in the year 2008, and 6 percent in the year 2009. We will save $62 billion. We think that we can make that kind of a change without ravaging the system, and we would distribute the money through a per capita cap.

This maintains the individual entitlement to Medicaid coverage and creates incentives to maintain health care coverage. It provides for funding into each of the four categories of principal...
Medicaid populations, that is, poor children, their mothers, the disabled, and the elderly. So that we will not create what is, I believe, an inevitable result of the block grant approach which is going to be a war at the State level among those four groups of beneficiaries.

We would also lobby for a continuation of innovative programs such as the program in the State of Tennessee. We believe that the kinds of flexibility that we would provide, which would make it easier for States to move to managed care and easier for States to use community-based services to meet the needs of the elderly, will produce some real economies and therefore reduce the rates of expenditure over the next 7 years. An attainable goal without collapsing the system.

It is interesting, Mr. President, that the proposal that I make today, the per capita cap alternative to block grants, is the one proposal which was introduced in the Senate on June 29, 1994, by our distinguished majority leader, cosponsored by 39 Republican Members. A similar program was introduced by our colleague, the senior Senator from Texas, and the junior Senator from Rhode Island, also promoting a per capita cap on Medicaid as a means of reforming the system.

Mr. President, I believe that we have a proposal that will achieve significant savings without sacrificing the safety net that Medicaid has represented. We can have these reforms while retaining a program that is vital to 37 million of our most vulnerable Americans. What we will sacrifice is a little piece of the tax break that we are about to give to our most vulnerable Americans. What we will sacrifice is a little piece of the tax break that we are about to give to the wealthiest of Americans in order to assure minimal health care standards for the poorest and most vulnerable of Americans.

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

Mr. GRAHAM. Mr. President. I ask unanimous consent that statements from the following organizations in support of the Senate proposal be printed in the RECORD and that an analysis of the mandates which are contained in the Republican proposal also be printed in the RECORD.

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

MAY 3, 1995

DEAR SENATOR: The undersigned organizations are opposed to eliminating the entitlement status of individuals under the Medicaid program. The Medicaid program provides basic health and long-term care services to over 33 million American men, women, and children. Eliminating the entitlement status would jeopardize coverage for these families, children, and persons with disabilities, at a time when employers are dropping coverage and the number of uninsured persons continues to rise.

We understand that, in the interest of deficit reduction, savings must be achieved in the Medicaid program. However, extreme and disproportionate cuts in the Medicaid program will result in more Americans uninsured and in poor health. Incentives for providers to serve this population, and untellable costs of shifting to state and local governments, providers and private payers. We stand ready to work with you on ways to achieve reasonable levels of savings without endangering access of millions of beneficiaries to essential health care. We do not believe that ending the entitlement nature of the Medicaid program would achieve these objectives.

Sincerely yours,

AIDS Action Council.
Alzheimer's Association.
American Academy of Family Physicians.
American Association of University Women.
American Civil Liberties Union.
American College of Physicians.
American Federation of State, County & Municipal Employees.
American Federation of Teachers, AFL-CIO.
American Geriatrics Society.
American Network of Community Options and Resources.
American Nurses Association.
American Public Health Association.
Americans for Democratic Action.
Association for the Care of Children's Health.
Automated Health Systems, Inc.
Bazelon Center for Mental Health Law.
Bridgeport Child Advocacy Coalition.
Catholic Charities USA.
Catholic Health Association.
Center for Community Change.
Center for Science in the Public Interest.
Center for Women Policy Studies.
Center on Disability and Health.
Children's Defense Fund.
Coalition of State Mental Health Agencies.
Connecticut Association for Human Services.
Consumers Union.
Council of Women's and Infants' Specialty Hospitals.
County Welfare Directors Association of California.
Families USA.
Family Service America.
Human Rights Campaign Fund.
International Ladies' Garment Workers' Union.
International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers.
International Union of United Auto Workers.
Legal Action Center.
Legal Assistance Resource Center of Connecticut.
Menomonie Central Committee, Washington Office.
National Association of Child Advocates.
National Association of Children's Hospitals and Related Institutions.
National Association of Counties.
National Association of Developmental Disabilities Research and Training Centers.
National Association of Homes and Services for Children.
National Association of People with AIDS.
National Association of Protection and Advocacy Systems.
National Association of Public Hospitals.
National Association of School Psychologists.
National Association of Social Workers.
National Citizens' Coalition for Nursing Home Reform.
National Coalition for the Homeless.
National Community Mental Health Care Council.
National Council of Senior Citizens.
National Easter Seals Society.
National Education Association.

Sincerely,

Action for Families and Children (DE).
California Action for Prevention of Adolescent Pregnancy ChildWatch, Los Angeles County (CA).
Advocates for Children and Youth, Inc. (MD).

October 24, 1995

DEAR SENATOR: As groups deeply concerned with the health and well-being of America's children and families, we are writing to express our fundamental opposition to the proposed House and Senate reconciliation bills' Medicaid provisions.

The physical and mental health of America's children today determines the social and economic health of the whole nation in the future. Unfortunately, our children's health is already at risk: we lag behind many other industrialized and some developing nations on key indicators like infant mortality, low birthweight, prenatal care, and immunizations.

The Medicaid proposals in the reconciliation bills will make this situation even worse. Already, nine and a half million U.S. children lack any health insurance. Even though just as many parents as ever are employed, children have been losing private-employer-based insurance at a rate of 1 percent a year for more than a decade. Medicaid has been making the difference, as its increased coverage of children from working poor and near poor families is already at risk: we lag behind many other industrialized and some developing nations on key indicators like infant mortality, low birthweight, prenatal care, and immunizations.

As the drop in private insurance continues, if Medicaid shrinks instead of picking up the slack, the children who lose coverage will be even more likely to be uninsured from year to year. In the end, children will not only lose health care, but will also have to pay the price. With a $182 billion Medicaid cut, in the seventh year of the cut 6½ million children would lose eligibility if the cut is translated into eligibility reductions and applied proportionately to all groups (e.g., children, people with disabilities, the elderly, and other adults). Then 19 million children would be uninsured in 2002. In fact, we fear that political conditions in state capitols will lead children to bear a disproportionately large share of any Medicaid cuts, so the number of uninsured children would be even larger.

The United States can invest now—in immunizations, preventive care and early treatment—or it can pay later in more expensive remedial care and the high social and productivity cost of children growing up unhealthy. We all support fiscal responsibility in the federal budget, but to balance the budget on the backs of the children and destroy our system of assured health care that is fundamental to the health of millions of America's children and pregnant women is unacceptable.

Sincerely,

The Alan Gutmacher Institute.
October 26, 1995

CONGRESSIONAL RECORD — SENATE

S 15729

Advocates for Youth.
Advocates for Connecticut's Children and Youth (CT).
Agenda for Children (LA).
Aids Foundation of Chicago (IL).
AIDS Resource Center for Children, Youth, and Families (NJ).
Alaska Children's Services, Inc. (AK).
All Saints Church, Pasadena (CA).
American Academy of Family Physicians.
American Academy of Pediatrics, Connecticut Chapter (CT).
American Academy of Pediatrics, Utah Chapter (UT).
American Family Federation of State and County Municipal Employees.
American Medical Student Association/Foundations.
American Nurses Association.
American Occupational Therapy Association.
American Public Health Association.
Americans for Democratic Action.
Anastasia/Congress Heights Partnership (DC).
APPLE/Services/Crisis Center of Hillsborough County, Inc. (FL).
Arkansas Advocates for Children and Families (AR).
Arkansas Children's Hospital (AR).
Asian and Pacific Islander American Health Forum (CA).
Association of Medical School Pediatric Department Chairs.
Baystate Medical Center Children's Hospital (MA).
Bazelcon Center for Mental Health Law.
Beckland Home Health Care, Inc. (MN).
Belfast Area Child Care Services, Inc. (ME).
Bellevue Children's Hospital (AK).
Berkley Oakland Support Services (CA).
Bread for the World.
California Children's Hospital Association (CA).
Cash Plus (MN).
Catholic Charities Office for Social Justice (MN).
Center for Human Investment Policy.
Center for Law and Human Services, Inc. (IL).
Center for Multicultural Human Services (CA).
Center on Disability and Health.
Center for Public Policy Priorities (TX).
Center on Work & Family at Boston University (MA).
Central Nebraska Community Services (NE).
Chatham-Savannah Youth Futures Authority (GA).
Chicago Coalition for the Homeless (IL).
Child Abuse Coalition, Inc. (FL).
Child Advocacy/Palm Beach County, Inc. (FL).
Child Advocates, Inc. (TX).
Child Care Connection (AK).
Child Care Connection (FL).
Child Welfare League of America.
Children's Action Alliance of Arizona (AZ).
Children's Advocacy Institute (CA).
Children's Defense Fund.
Children's Health Care (MN).
Children's Home Society of Minnesota (MN).
Children's House, Inc. (NY).
Children's Medical Center of Dayton (OH).
Children's Memorial Hospital (IL).
Children's Rights, Inc. (NY).
Citizen's Committee for Children of New York (NY).
Citizen's Committee for Children of Missouri (MO).
Citizen's Committee for Children of New York (NY).
Citizenship Education Fund.
October 26, 1995

A MESSAGE TO CONGRESS

CONGRESSIONAL MEDICAID "REFORM" PROPOSALS WILL HARM CHILDREN AND ADULTS WITH DISABILITIES AND THEIR FAMILIES

Member organizations of the Consortium for Citizens with Disabilities Health and Long Term Services Task Forces are extremely concerned about the impact that both the House and Senate Medicaid "reform" proposals will have on the lives of children and adults with disabilities and their families. We urge Congress to carefully consider the implications of the proposals and to refrain from passing laws that would cripple the Medicaid program.

Concerns about the impact of either the House or Senate proposals are tied to the following issues:

1. Medicaid is restructured so that children and adults with disabilities and their families face the risk of losing services and supports.
2. Medicaid is not available in some areas where it is desperately needed.
3. Medicaid is not now an entitlement and therefore is subject to benefit and eligibility changes that can deny care to children and adults with disabilities.
4. Medicaid funding is not adequate to meet the needs of children and adults with disabilities.
5. Enrollment and disenrollment systems are complex and confusing.

With these concerns in mind, the Consortium for Citizens with Disabilities Health and Long Term Services Task Forces have prepared this message to urge Congress to work toward systems of health and long term care to meet the needs of children and adults with disabilities.

A MESSAGE TO CONGRESS

October 26, 1995

We urge Congress to carefully consider the implications of the proposals and to refrain from passing laws that would cripple the Medicaid program.

[From Consortium for Citizens with Disabilities]
would have to spend 85 percent of the average percentage of the state's Medicaid spending on mandatory services (what the state now must cover) for people in that category. According to the current law, for the most severely disabled category, states would have to spend 85 percent of the state's Medicaid spending in FY 1995 on mandatory services for people in that category.

This formula does not take into consideration spending on optional services (what the states now choose to cover). For people with disabilities, this is a major blow. Current optional services are the ones most likely to be of critical importance to children and adults with disabilities and dollars currently spent towards them would not be counted towards the disability set-aside. Optional services include the following: speech, physical, and occupational therapy, psychological services, clinic services, prescription drugs, dental services, eyeglasses, prosthetic devices, rehabilitative services, home and community-based services, ICF-MR services, personal care services, respiratory care services, and case management.

In the face of the loss of the personal entitlement to specific required services and the weak funding formula, both the House and Senate's proposals would eliminate consumer and quality assurance protections and federal oversight in Medicaid services or Medicaid funded facilities. This includes elimination of federal nursing home and ICF/MR regulations and even the minimum requirement that funds be spent on active treatment for individuals in institutional settings rather than merely custodial care. While Congress continues to speak of the value of devolution and state's rights, the CCD believes that states could not or would not provide needed services and supports for children and adults with disabilities and their families. There are well warranted and deep-seated fears in the disability community that the loss of minimum federal standards coupled with intensified fiscal pressures will mean that some states return to institution-based custodial care with the consequent loss of individual freedom, rights, and quality of life. The CCD strongly urges the Senate Finance Committee to look beyond federal oversight requirements currently attached to funding for certain Medicaid long-term services must be remembered and not abandoned. There are also people who are concerned that states will move more people into managed care plans while at the same time removing current consumer protections related to managed care.

The CCD strongly urges you to carefully reconsider how to "reform" the Medicaid program and not to support the passage of the provisions in the Medicaid Transformation Act of 1995 as part of the budget reconciliation bill. We ask you not to endanger a program that has allowed millions of children and adults with disabilities to live fuller and more productive lives in the community and that they now have as part of both acute health care and needed long term services and supports. The CCD does not support the status quo on Medicaid. We believe, however, that there are changes to the program that can be made that will not penalize those who now benefit from the program. We are confident that the current incentives for institutional care and the provision instead of incentives for home and community-based long term services and supports.

Finally, the CCD supports efforts to reduce the federal deficit. However, the CCD strongly believes that it is unfortunate that all of the programs on the table for deficit reduction are those of importance to children and adults with disabilities—such as Medicaid, children's Supplemental Security Income, housing, social services jobs, and education. It is also unfortunate that Congress is endeavoring to balance the budget using only 48% of the federal budget and that 48% comes at the expense of programs of critical importance to the lives of people with disabilities.

The CCD asserts that the individual entitlement to a "haven" of services and supports for children and adults with disabilities must be maintained. The CCD asserts that federal reimbursement should be provided for the full range of acute and long term services and supports that are presently available, including optional services which states now choose to provide through their Medicaid programs. In addition, the states should be required to continue to contribute at least their current share of funds to finance Medicaid services and supports.

The CCD asserts that the federal regulations that states meet certain standards of quality and ensure quality assurance measures, as well as due process and other consumer protections must be maintained.

The CCD asserts that managed care should be an "option" and not the only avenue of services for people with disabilities and that strong consumer protections, including time limits and appeals access to all necessary services, supports, and providers must be ensured.

The CCD argues that current incentives for institutional care built into the Medicaid program must be eliminated and replaced with incentives for the provision of home and community-based long term services and supports.

1995 CCD HEALTH AND LONG-TERM SERVICES TASK FORCE MEMBERS
Adapted Physical Activity Council
Alliance for Genetic Support Groups
American Academy of Child & Adolescent Psychiatry
American Academy of Neurology
American Academy of Physical Medicine and Rehabilitation
American Association for Respiratory Care
American Association of Children's Residential Centers
American Congress of Rehabilitation Medicine
American Foundation of the Blind
American Horticultural Therapy Association
American Network of Community Options & Resources
American Occupational Therapy Association
American Orthotic and Prosthetic Association
American Physical Therapy Association
American Psychological Association
American Rehabilitation Association
American Speech-Language-Hearing Association
American Therapeutic Recreation Association
Amputee Coalition of America
Association of Academic Physiatrists
Association of Maternal and Child Health Programs
Autism National Committee
 Bazelon Center for Mental Health Law
Brain Injury Association
Center on Disability and Health
Children's Defense Fund
Children & Adults with Attention Deficit Disorders
Epilepsy Foundation of America
International Association of Psychosocial Rehabilitation Services
Joseph P. Kennedy, Jr. Foundation
Mental Health Policy Resource Center
National Alliance for the Mentally Ill
National Association for Music Therapy
National Association for the Advancement of Orthotics and Prosthetics
National Association of the Deaf
National Association of Developmental Disabilities Council
National Association of Medical Equipment Suppliers
National Association of People with Aids
National Association of Protection and Advocacy Systems
National Association of State Directors of Developmental Disabilities Services
National Association of State Directors of Special Education
National Association of State Mental Health Program Directors
National Center for Learning Disabilities
National Community Mental Healthcare Centers
National Consortium on Physical Education and Recreation for Individuals with Disabilities
National East Seel Society
National Health Law Program, Inc.
National Industries for the Blind
National Mental Health Association
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Organization on Disability
National Rehabilitation Association
National Spinal Cord Injury Association
National Therapeutic Recreation Society
NISH
Paralyzed Veterans of America
President's Committee on Employment of People with Disabilities
Research Institute for Independent Living
The Accreditation Council on Services for People with Disabilities
The Arc
United Cerebral Palsy Associations
World Institute on Disability

OCTOBER 24, 1995
DEAR SENATOR DOLE: As providers of long-term care services, we are concerned that the Finance Committee proposal to impose a block grant financing mechanism for Medicaid fails to ensure that adequate resources will be made available to meet the needs of our nation's elderly, disabled, and infirm. We fear that the proposed annual increases in federal Medicaid funding for state programs will be insufficient to meet the quality of care needed by residents of long-term care facilities and subsequently reduce access to services. Furthermore, the failure to meet the resource needs anticipated in future years for these services will negate the many advances made in this area as a result of the enactment of the nursing home reform provisions of OBRA 87.

We urge you to support the retention of federal oversight of nursing home quality linked to a statutory payment mechanism ensuring that adequate financial resources are made available to meet prescribed levels of service. Although this linkage can take several forms, the current formulation which backs the nursing home reform provisions of OBRA '87 to a statutory direction that payors of services (both federal and state) must provide that payment of adequate rates has proven a workable mechanism and should not be repealed.

We endorse the need for continued nursing home reform. Standards, joined with existing reimbursement standards, have resulted in a steady improvement in the quality of long-term care services. Without such a link, this quality of care cannot be sustained. It is our sincere desire to move forward with the quality of care provided in nursing homes and to recognize that
Specifically, the proposal requires:

**SECTION 110**

Page 2—A state plan is required for reimbursement under this bill. The state plan must be approved by Secretary.

**SECTION 111**


Page 5—Strategic objectives and performance goals in state plan must be updated not later than every 3 years.

Page 5—Extensive annual reports must be prepared by states and submitted to Congress.

**SECTION 113**

Page 6—Every third year, each state must provide for an independent review of the state Medicaid plan.

**SECTION 114**

Page 12—Each state Medicaid plan must provide a description of the process under which the plan shall be developed.

**SECTION 115**

Page 13—States must consider establishing working group to develop criteria for prioritizing Medicaid services and deductibles.

Page 14—States must establish formal procedures for referral of fraud, patient ‘abuse and neglect’ complaints, and overpayment cases to the State Medicaid Fraud Control Unit. The State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan.

Page 15—States must establish formal procedures for referral of fraud, patient ‘abuse and neglect’ complaints, and overpayment cases to the State Medicaid Fraud Control Unit. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan.

Page 16—The Secretary shall provide for an independent review of the Medicaid plan.

Page 17—The State must provide a description of the process under which the plan shall be developed.

Page 18—The State must establish formal procedures for referral of fraud, patient ‘abuse and neglect’ complaints, and overpayment cases to the State Medicaid Fraud Control Unit. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan.

Page 19—Creation of an Agency for Health Care Policy and Research.

**SECTION 211**

Page 19—Each state Medicaid plan must meet certain Federal eligibility and benefit requirements.

**SECTION 212**

Page 31—States may set up premium and cost sharing for enrollment in the Federal program.

**SECTION 213**

Page 35—If a state contracts with a capitated health care organization, the state must annually provide before the beginning of the contract year—public notice and an opportunity for public comment on amounts spent.

**SECTION 214**

Page 37—Each state will develop its own criteria for providing benefits and geographic coverage.

**SECTION 215**

Page 40—Establishment of new income rules for institutionalized spouse in determining eligibility for Medicaid. Also, rules establish a hearing process relating to a monthly allowance for the non-institutionalized spouse.

**SECTION 216**

Page 59—Establishment of complex formula for the allotment of block grant funds to states.

Page 84—By April 1, annually, the Secretary shall compute and publish in the Federal Register program obligation and outlay allotments for each State.

Page 85—GAO shall report to Congress annually a report of preliminary allotments.

**SECTION 116**

Page 87—Quarterly reports shall be filed by the States estimating the total sum to be expended in such quarter.

Page 95—If first audit not acceptable. Audit reports must be available to both HHS and the State. The State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan.

Page 111—Limits established on the amount that a state may use a grant to carry out a program for which a waiver was granted.

**SECTION 117**

Page 113—Limits on payments for nonlawful aliens. Abortion and assisted suicides. States must establish procedures that funds not be used for unauthorized purposes.

**SECTION 118**

Page 119—Methodology for grants to be determined by HHS.

**SECTION 119**

Page 121—Separate state audit required annually. Additionally, if an individual is required to be notified of a violation of this section, the State must file a separate notification of the violation with the appropriate state licensing board and local law enforcement.

**SECTION 121**

Page 123—States must establish a mechanism that notifies the Secretary of HHS of any formal proceedings, including outcome, against an individual provider or provider entity. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan. Additionally, the State must provide for an independent review of the Medicaid plan.

Page 127—Each state required to develop separate state audit requirements. Additionally, if an individual is required to be notified of a violation of this section, the State must file a separate notification of the violation with the appropriate state licensing board and local law enforcement.

**SECTION 123**

Page 131—Each State must develop procedures for determining when a third-party payor is legally obligated to pay a claim. Additionally, if an individual is required to be notified of a violation of this section, the State must file a separate notification of the violation with the appropriate state licensing board and local law enforcement.

**SECTION 125**

Page 131—Each State must develop procedures for determining when a third-party payor is legally obligated to pay a claim. Additionally, if an individual is required to be notified of a violation of this section, the State must file a separate notification of the violation with the appropriate state licensing board and local law enforcement.

**SECTION 127**

Page 142—Each State must develop separate audits for the purposes of ensuring that each state Medicaid Fraud Control Unit is functioning as intended. Additionally, if an individual is required to be notified of a violation of this section, the State must file a separate notification of the violation with the appropriate state licensing board and local law enforcement.

**SECTION 129**

Page 144—Each State must develop separate audits for the purposes of ensuring that each state Medicaid Fraud Control Unit is functioning as intended. Additionally, if an individual is required to be notified of a violation of this section, the State must file a separate notification of the violation with the appropriate state licensing board and local law enforcement.
SECTION 7194

Page 28—Requires HHS and HCFA to develop a playlist plan for children with special health care needs.

Page 29—Creates a grant program for demonstration projects using the criteria developed for children with special health needs. Requires these projects to submit annual and final reports to HHS.

Page 29—Requires CBO to conduct an annual analysis of the impact of the new Medicaid amendments and to submit a report to the Senate Finance Committee and House Commerce Committee.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I congratulate the excellent statement and arguments that have been made by my distinguished colleague from Florida on this legislation. I believe we are about ready to come down to the end of this Act and go to the education amendment. Before we proceed, I wish to yield 1 minute to the Senator from Connecticut.

Mr. DODD. I thank my colleague from Nebraska.

Mr. President, I apologize for being tied up in the Banking and Housing. I think as we look at this legislation people have to ask the fundamental question of who is being hurt by this proposal. No one is suggesting we ought not to make reforms in these programs to make them more efficient. But when 4.4 million children over the next 7 years, as the estimates say, will lose the kind of protection that Medicaid has provided. That is my view goes too far. I think the American people are responding to that. It is extreme. Clearly, corrections need to be made, but this goes way beyond what most Americans think is right and fair.

If we are going to invest in the future of this country, in those young children who have no other safety net to protect them are going to be lost in that process. It is bad enough to place at risk 12 million Americans, 8 of whom are adults with long-term care needs. But for almost 5 million children who may lose Medicaid in this country who are born into these circumstances and will start their lives in this way. I think it is wrong headed: I think it is unfair; I think it is extreme; I think it is unfair; and I think it is dangerous for this country's future.

I thank my colleagues for yielding.

Mr. EXON. Mr. President, after conversation with several Senators, including my distinguished colleague from Michigan, I think we have general agreement now that we will, under the previous order, move to the next order of business which is the so-called education amendment.

The time under that amendment will be controlled by the Senator from Massachusetts. Senator Kennedy, who I believe is ready to yield.

In the interest of conserving time—we have had a general agreement—and I ask unanimous consent at this time that instead of the 2 hours, 1 hour each side, on the education amendment, that the time be reduced to 90 minutes or 45 minutes per side. I propose that as an unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. ABRAHAM. Mr. President, the majority does not object. We support the 30-minute time agreement.

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

Mr. EXON. I thank the Chair. I hope at this time the Chair would recognize the Senator from Massachusetts.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2559

(Purpose: To strike those portions of the Committee on Labor and Human Resources reconciliation title that impose higher student loan costs on students and families by striking the 85 percent fee imposed on colleges and universities based on their student loan volume; restoring interest rate increases on subsidized (EL) and unsubsidized (PLUS) loans; and eliminating the 20 percent cap on direct lending and to provide an offset by striking the provisions that dilute the alternative minimum tax.

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

The PRESIDING OFFICER. The clerk shall report the amendment.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself, Mr. SIMON, Mr. PELL, Mr. DODD, Mr. HARKIN, Mrs. MIKULSKI, Mr. WELLSTONE, Mrs. FEINSTEIN and Mrs. MURRAY, proposes an amendment numbered 2559.

On page 1409, beginning with line 8, strike all through page 1410, line 25.

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

On page 1424, beginning with line 2, strike all through page 1425, line 1.

Strike chapter 3 of subtitle B of title XII.

Mr. KENNEDY. Mr. President, I yield myself 6 minutes.

Mr. President, we are 2 days into this debate. We had an opportunity yesterday to debate the issue of whether we are going to cut $270 billion out of the Medicare program in order to give tax breaks for the wealthy individuals and corporations.

Today we had the debate about whether we are going to take $180 billion away from the neediest children in our society and from the seniors of our country who have made such a difference to our Nation and put them at greater risk.

The third element in this whole Republican proposal is to deny, or move towards denying, the sons and daughters of working families the opportunity to achieve the American dream, that is, in the area of higher education.

The whole debate on higher education was a key debate in the 1960's between President Kennedy and President Nixon. During that time, this country went on record to provide help and assistance to the young people of
this country. We reserved three-quarters of a Federal assistance program for grants, money, and one-quarter for loans. The program was built on the mastonous success that this country saw at the end of World War II. We expended, in today’s dollars, $9 billion on education assistance to those who came back and fought in World II.

It is an interesting fact, Mr. President, that the analysis of this program proved it was a remarkable success. In fact, every dollar was actually given in grants, not loans—and returned some $8 to the Federal Treasury.

This Nation was committed to higher education. This Nation was committed to the young people of this country, to their hopes and dreams for a future in America. But under the Republican proposal, effectively what they are saying is, “We’re going to take some $10 billion away, away from the students of this country, and make it more complex, more difficult, and in many instances deny the dreams of those young people.” For what reason? For the reason of providing the tax breaks for wealthy corporations and wealthy individuals.

That is what this is about, Mr. President. That is what this is about. The amendment that we have offered today represents the fulfillment of that provision of the Republican bill.

First of all, the provision that institutes a new student loan tax that requires colleges and universities to pay the Federal government an annual fee of 85 percent of their student loan volume is struck. In addition, the amendment strikes provisions that eliminate the interest-free grace period, a concept that has been supported by Republicans and Democrats since the student loan program began.

We also strike the increased interest rates on parents in the PLUS loans, which are necessary loans for parents that do not have good assets. Since we increased the interest rates will help those parents continue to take advantage of the PLUS loans. Finally, the amendment strikes provisions capping the direct loan program at 20 percent of loan volume. The program is now at almost 40 percent participation.

The amendment takes us back to the existing law which will permit any college in this country, in any State, to choose to participate in the direct loan program. Not under the Republican proposal.

What we are saying is: If colleges, their boards of trustees, parents, faculty, teachers, young people want to move toward a direct loan program, that choice ought to be available at the local level. The Republican proposal denies colleges and universities and their communities the right to choose a loan program that works for them.

That right to choose was a bipartisan agreement made in the Senate. We believe that denying colleges and universities the right to choose is unwise and unfair.

And, Mr. President, we offer a full offset for this change to the Republican proposal, so that our amendment is budget neutral. We will return help and assistance to the students of our country by striking the Finance Committee’s reconciliation bill that dilute the alternative minimum tax on corporations.

The alternative minimum tax on corporations sets a minimum tax liability. It was passed in 1986 because many corporations were escaping any kind of tax payment. And you know what the Republicans did? They relaxed this tax benefit corporations by $9.2 billion. And so the Senate of the United States will have a chance today to say, “Do we want to relax the alternative minimum tax for corporations by $9.2 billion or do we want to provide the help and the assistance for the sons and daughters of working families?”

We have effectively voted on this amendment before, and we are going to see if the whirlwind of the Republican leadership, and the fact that the Republicans are marching in lock step to reject what they have supported in May: a reduction in the cuts to students.

We are taking the changes in the alternative minimum tax that provided easier payments for the largest corporations of this country and using them for the deficit reduction requirements for their legislation and leaving these programs alone. That is what this amendment does.

Mr. President, I do not think we have to make the case, or should have to make the case, that education is central to the American dream. But under the Republican proposal, they change that dream into a nightmare. The idea that the Republican proposal is a shared sacrifice is malarky.

They say, “There’s a shared sacrifice in our Human Resources Committee’s proposal.” The shared sacrifice is two-thirds—two-thirds of the burden is going to fall on the parents and daughters of working families. Half of them earn below $20,000 a year: two-thirds of them below $40,000. It is interesting to note that these are the same people whose taxes are going to be increased under the EITC. These are the same people that are going to have to provide additional help and assistance to their parents to increase the copayments and the deductibles.

The PRESIDING OFFICER. The Senator from Rhode Island who has been a former chairman of the Education Committee and who has made such a mark in education policy.

The PRESIDENT. Mr. Ashcroft. The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank my colleague. I am very, very pleased to be an original cosponsor of this critically important amendment. What we are talking about here is a capital investment in the future of our Nation. Passage of this amendment would accomplish the objective of taking students and their families, not completely, but partially out of harm’s way.

First, it would strike the first-time-ever fee on institutions of higher education. This fee of 85 percent, based on the total amount of money borrowed by students and parents at every institution of learning, is an unprecedented move and a cost that would undoubtedly be passed along to students in higher fees. Once established, I am afraid that it will increase over time.

Second, this amendment would strike the first-time-ever fee on the Parent Loan Program. Some argue that the increase would be so small as to be insignificant. I disagree.

A parent who borrows for 4 years of college, a typical 4-year public university will borrow a total of $27,000. If those loans are repaid over 10 years, the increase in the interest rate will mean those parents will have to pay an
additional $1.400. If they take advantage of extended repayment, the cost compares to $2,500. Neither of these figures is insignificant.

A parent who borrows at a private university will borrow more than $66,000. Repayment over a 10-year period will mean an additional $3,400 that parents will have to pay because of the increase in the interest rate. If repayment is extended over 20 years, the additional cost to the parent will be nearly $6,900 or $7,000.

The amendment would strike the 20-percent cap on the Direct Loan Program. This would leave alone the direct loan conference agreement of 2 years ago. It would mean that we would continue to have a spirited competition between direct and regular loans. A competition that has brought students improved services, better rates and more benefits.

And fourth, the amendment would strike in elimination of the interest subsidy during the grace period. This is of vital interest to students who have just completed their education and are out looking for a job. Proponents argue that the cost of eliminating the grace period will be small, but to a student who is just beginning a job, every dollar counts.

In terms of the package, I point out that while one change might appear small, the combined impact of the four changes addressed in this amendment is considerable. Students and their families will feel the impact of these changes. Instead of taking them out of harm’s way, it will place them directly in the line of fire. We can avoid that outcome if we adopt this amendment. I urge my colleagues to join me in voting for it. If ever there was a capital investment amendment to improve the competitive ability of our Nation, this is it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield 5 minutes to our friend and colleague and former member of the Labor and Human Resources Committee, JEFF BINGAMAN.

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

Mr. BINGAMAN. Thank you very much, Mr. President. I thank the Senator from Massachusetts for yielding me time.

Mr. President, I am in strong support of the Kennedy-Simon student loan amendment. It does deal with a very serious problem that I see in this budget reconciliation bill.

When I bought a house, I remember that you get the lowest points where will they charge you the fewest points for your house loan. The Government has never charged points for student loans before. We have never charged origination fees when we made a loan to a student to go to school.

This year, for the first time, we will begin to charge an origination fee. Now we charge it to the institution. The school itself has to pay the student loan fees, and, in effect, it builds in an incentive for the school perhaps to look for more financially capable students. They do not have that cost. They do not need to worry about origination fees if they get students that, in fact, do not need student loans. I think it is a very bad precedent. I think when you start charging an origination fee, it is a sad day in our Nation’s history. That is exactly what we see proposed in this bill. That would, supposedly, result in the Federal Government picking up $2 billion over the next 7 years.

We are increasing the interest rates on family interest. That is another $1.5 billion. And then by capping the amount of direct student loans that can be made, presumably we are going to lose $1.4 billion.

Mr. President, this amendment would strike the most onerous provisions of the reconciliation bill by striking the provisions that increase the costs of loans for students and their families.

The Republicans propose that almost 70 percent of the $10.8 billion cuts in the current student loan system be shouldered by students and their families. Only $3.1 billion is borne by the loan industry and $100 million by cost sharing with States. The overwhelming majority of these cuts, shown in red on this chart, would be shouldered by the very students the program is intended to help. Only 5 percent of the cuts shown in yellow on this chart, are imposed on banks, guaranty agencies, and secondary markets in the student loan industry. That means that directly or indirectly the wrong people suffer. It will cost needy students more to borrow.

The Kennedy-Simon amendment fixes that. It strikes all portions of the Labor and Human Resources Committee reconciliation title that impose higher student loan costs on students and their families. Let me show you how.

First, the amendment would restore a 6-month interest-free grace period following graduation. That means that interest would not accrue on student loans for 6 months after graduation giving students time to look for a job. The amendment strikes the Republican cut of $2.7 billion for an interest-free grace period. The amendment would thereby save an individual student between $700 and $2,500, depending on the length of study and amount borrowed.

Next, the amendment eliminates a new 8.5-percent fee on new student loans. It strikes the $2 billion Republicans would save by introducing this new fee. The fee, which Republican members would force colleges either to absorb this new tax on student loans or pass it on as increased students fees. This would have meant about $25 every year for about 14 million students with new loans. It would have effectively penalized schools for accepting needy students.

Next, the amendment eliminates the rate of interest on family fees for student loans. Without this amendment, the increase in PLUS loan interest rates could amount to up to $5,000 a family. This increase would be paid by the very families who lack other assets.
against which to borrow, and must therefore borrow most heavily from this program to afford 4 years of college.

Finally, the amendment eliminates the 20 percent cap on the direct loan program. The program is now at 30 to 40 percent and has made the student loan process much quicker and more efficient for participating students.

This amendment is good policy for the Nation. In New Mexico, it will be absolutely essential. It will enable a better education for some students who otherwise would not go to college. Colleges in New Mexico have volunteered my office the numbers of their students on Federal financial aid because, they tell me, they know is vital for the students they serve. They say three New Mexico colleges alone have well over 20,000 students receiving some form of Federal financial aid. At the University of New Mexico, there are about 10,000—New Mexico State University, about 5,000—Western New Mexico University, about 1,400. Other colleges have more.

More important, over 70 percent of all financial aid in most New Mexico colleges is Federal. In some it is almost the only source available. In New Mexico Highlands University and New Mexico Junior College in Hobbs there is very little financial assistance that is not Federal. These schools serve students to whom financial assistance is absolutely essential, whose families cannot sustain higher levels of personal debt. Other States may be richer than New Mexico. But in my home State, this amendment would make the difference in reducing the level of student and family debt to a point that working families feel it is within their reach. This would enable some students to go to college who otherwise might never go. There is one other point of the biggest concern: longer a ticket to the good life; it has become a mandatory qualification for most entry-level professional jobs.

This bill strikes at the heart of the student loan commission. The amendment renews that commitment to make college accessible to qualified students regardless of privilege. I urge my colleagues to adopt this amendment.

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

Mr. BINGAMAN. I urge my colleagues to support the Kennedy-Simon amendment.

Mr. KENNEDY addressed the Chair.

Mr. BINGAMAN. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 28 minutes.

Mr. ABRAHAM. I yield myself such time as I may need to make a brief statement regarding this amendment. And then I will yield time to another Member on our side.

The chairman of the Senate Labor and Human Resources Committee and I were chatting here on the floor, and the Senator from Kansas indicated to me a couple of things. Members on both sides are probably aware that there are a couple of things now that may directly address much of the content of this amendment in a way that would be very similar to what is being proposed here. Those discussions are going on as we debate this issue.

There is likely to be, from our side, an amendment which would be responsive to some of these concerns, many of which were raised in the Labor and Human Resources Committee—Members of the Senate Labor and Human Resources Committee—during the debate.

For the students who are watching today and listening to our proceedings, or their families, I want to point out a couple of factors which, once again, the chairman and the committee reminded me of, which we discussed during our deliberations on this.

First of all, nothing in the reconciliation package will, in any way, affect the student loan interest rates to students. In other words, the growth rate of student loan volume will continue unabated under the Republican package.

Students who are hoping to get loans that are no longer available. We are not contracting the size of the loan volume. I believe it will be in the vicinity of $25 billion annually under this package.

In addition, I point out concerns that have been raised about the origination fee that is part of this package. There was an amendment, as the President will remember, brought before the committee that would have eliminated the origination fee. It was opposed and voted down. I believe every Member of the minority party voted against an amendment that would have eliminated those origination fees.

I want to point out just for clarification, insofar as the grace period issue is concerned, we are not asking students to begin paying back their loans upon completion of school. Our changes only go to the issues of when interest begins to accrue. Students will still have 6 months after graduation before they are required to begin paying their student loans. Indeed, as I think everybody is aware, the overriding goal we have here in this reconciliation package, and more broadly in our budget, is to bring the budget into balance.

Mr. President, when we do that, we not only will bring down interest rates for the Federal Government, we also will bring down interest rates across America for everybody. When those interest rates come down, they will not come down so that we pay on the bills. It will be for what people pay on home mortgages and with respect to student loans. As those student loan interest rates come down, they will be able to finance their college education better than anything we are doing here today, because a much lower student loan rate is going to mean far less total dollars spent by students than anything else we could do here in the U.S. Senate.

I also note that in our finance package, as Senator Simon and others have said, there is also a student loan deduction available to people who are paying student loans, for middle-income families. That, too, will help to offset the burdens of college education that middle-income families face countrywide.

So we are trying to be responsive. We are not reducing the volume rate. We are not requiring students to begin paying their loans earlier: and, most importantly, we are trying to balance the budget so that interest rates on student loans will be so low that they will help students in the kind of ways students want most, which is a total amount of money being paid back, lower than what they have to pay back today.

I yield 10 minutes to the Senator from Montana.

Mr. BURNS. Mr. President, this is the first time I have come to the floor to comment on this reconciliation package. I guess the first thing we tried to look at with regard to this is the tax cuts and also the cuts in spending. One has to look at it from the standpoint of what this does. What does it do for my home State of Montana? There are some things not in this package that I think, if you want to do something about a farm bill, give farmers accelerated depreciation, and income averaging, we would not need a farm bill. If you want to be fair with agriculture because of the conditions under which they work.

But in this package, I congratulate Senator DOMENICI, the chairman of the Budget Committee and, of course, the Finance Committee, for the exceptionally hard work to try to balance and make it fair. Tax relief for families is essential, as the sacrifices the income averaging. We would not need a farm bill. If you want to be fair with agriculture because of the conditions under which they work.

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We have to keep reminding America through this whole debate that the single largest revenue item in the tax package is a $500 per child tax credit, which has a cost of about $142 billion. What is wrong with letting families hang on to their money? They earned it. Sure, there are some Government services they want to pay for and it takes some amount of dollars to provide services that only Government can offer. We know that. But when they start making the decisions for all parts of your life, then that is where the line is. Nobody is debating public safety here or doing some of the things of the society that has to be done.

This package provides for an adoption credit; a marriage penalty credit; deductions for student loan interest, for the first time; deductions for contributions to individual retirement accounts. These tax breaks—about $28 billion, or so—are 13 percent of the total tax change, and targeted for folks who are middle-income folks. There is $40 billion in capital gains tax reform. There, again, we hear “cut taxes for the rich.” Capital gains tax is a voluntary tax. You do not have to pay capital gains tax. You do not have to pay it because you do not have to sell.

The real wealthy folks can get around it because they know how to move those things around with tax laws and different laws.

On capital gains, this helps even the homeowner whenever he sells his home and wants to retire. Everybody whose assets appreciate, pays capital gains taxes—that is, if they sell.

So it is not for the rich. It is for all Americans that are smart enough to get a hold of some assets that appreciate. We do not tax that.

We visited with a very knowledgeable man from Kansas and he said over $7 trillion of assets would flow onto the market if the capital gains was cut in half. What would that do to the American economy? Imagine what that would do to the tax coffers of the Treasury of the U.S. Government, so that maybe we can do some things that we want to do.

We have to think a little bit—just think a little bit. Capital gains is basically a voluntary tax. Just a voluntary tax.

Another provision in this package, the estate and inheritance tax provision on that reform. Folks who leave estates—those estates have been taxed and taxed and taxed and the interest they have on that has been taxed and taxed and taxed and then when they die they are taxed again.

I think of all of the ranches and farms in the State of Montana where money had to be spent for insurance policies for themselves so they could pay the inheritance taxes so the farm or the ranch can stay in the family.

Needless, needless expense. They paid taxes on that land. And property tax, income taxes, investment taxes, and then when the key family member passes on there is another estate tax that has to be paid.

Hard-working families—the only thing they have on those farms and ranches is just the land. They have not made a lot of money. They do not have a lot of cash. They just do not have a lot of cash.

In effect, these death taxes are robbing American communities of a tradition of values that local family-run businesses, businesses that are heartedly supported that provision. If you feel for a young man that is trying to start off in the agriculture business, my goodness, do not strap him with a debt that he cannot work his way out of.

If you think there is not some disparity there, I will give you just a little idea on what it is like to farm. I was walking down the grocery store aisle the other day, and found that those Wheaties cost $3.46 a pound. Do you realize that we are only getting $2.50 a bushel of wheat that has 60 pounds of wheat in it?

They would not have a little bit of disparity here. You want that man to keep on producing food and fiber so the American people can eat cheaper than any other society on the face of this Earth.

A while ago I listened to my distinguished colleague from the other side of the aisle challenge the estate tax credit. Their argument is focused on the unfairness of giving a tax break to any estate that exceeds $5 million.

I have asserted the top one half of the top 1 percent of the American people fall into that category. They should not be getting a tax break in the first place. I agree.

I must depart from my distinguished colleagues on the other side of the aisle challenge the estate tax credit. Their argument is focused on the unfairness of giving a tax break to any estate that exceeds $5 million.

I have asserted the top one half of the top 1 percent of the American people fall into that category. They should not be getting a tax break in the first place. I agree.

I must depart from my distinguished colleagues on the other side of the aisle for two reasons. I believe any death tax is to its core unfair. If we are going to keep these small businesses, the farms and ranches in the families of traditional values, we have to take a look at what we do in the taxing situation.

Taxes that cost jobs—the alternative minimum tax, we did not get all that we needed in this, but if there is one place that creates jobs and opportunities, it is here. When you tax small corporations, small family businesses, make sure that they keep two sets of books to see which one is a higher set of taxes than the others, that takes money away from this business of the ability to expand, to expand their business.

Under the committee’s package, the method of depreciation is conformed but the useful life is not.

One major problem with this is that business will start to have to suffer the unnecessary costs of maintaining two sets of books on each depreciable asset of the performing two tax computations to determine that they do not fall into the alternative minimum tax bucket. We have to do something about that. We have to do something.

Two sets of books—needless, costly. We could be investing that in a bigger payroll. That is what creates jobs.

In conclusion, we should talk about some good things that are in this package. Talk about the good things that you are going to say. We will keep more money in your neighborhood for your quality of life. That you can make the decisions on how you want to spend the money and not be looking toward this 13 square miles of logic-free environment or answers that sometimes just do not work in other communities.

That is what this debate is all about—where the power is, the power to purse string. With the tax credits and tax reform we will do the responsible thing and not the irresponsible thing of saying, “Let’s wait until next year,” or “Let’s accept the status quo,” and we know what the results of that are.

I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I rise in strong support of the education amendment offered by my colleague from Massachusetts.

I glanced through this two-volume reconciliation thing this morning and I found all kinds of things. Here is a provision for the Hetch Hetchy Dam. I have no idea where the Hetch Hetchy Dam is or what it means.

It has very little significance for the future of our country, but what does have significance for the future of our country is what we are doing in the field of education.

The Presiding Officer may be too young to remember the GI bill after World War II. There was a fight on the GI bill. The American Legion, to their credit, said, “Let’s have educational benefits as part of the GI bill.” The other veterans organizations said, “Let’s have a cash bonus for veterans.”

Fortunately, the American Legion prevailed and we put the money into education. We lifted this Nation.

Now we face the same choice. Do we have a tax loophole here that is being put out of business, which the Kennedy amendment says, “Let’s not put that tax loophole in,” or do we put the money in education? The Kennedy amendment says put the money in education.

I want to address specifically the question of direct lending. Let me say to my colleagues on the Republican side, this is not a Democratic idea. The first person that suggested it is Congressman TOM PETRI, a Republican from Wisconsin.

My cosponsor of this legislation in the U.S. Senate was Senator David Durenberger, a Republican from Minnesota. When he was approached and said we ought to have the free enterprise system work and have the banks and the guaranty agencies profit from it. Dave Durenberger said, “This is not free enterprise: it is a free lunch.” That is the reality in your neighborhood.

There is not a school in the country, not a college or university, that is on direct lending. That wants to go back to the old system.
Colleges and universities like it, the students like it, taxpayers like it. One reason I may get into a minute, and for my colleagues on the Republican side who say we like to do away with paperwork, I have heard speeches on both sides that every college and university says this does away with all kinds of paperwork. This is a change not just for a speech but for a vote. If the colleges and universities like it, if the students like it, if it is good for the taxpayers, why are we limiting direct lending? My friends, the only beneficiaries are the banks and the guaranty agencies and their lobbyists. And we have just seen in the newspapers that the banks have record-breaking profits. If we want to have a bank subsidy bill, let us call it that, but do not put the name of "student assistance" on it. Let us not play games.

Who are these people who are fighting direct lending? The Student Loan Marketing Association, Sallie Mae, created the mandates Congress. The salary of the chief executive of Sallie Mae, 3 years ago was $21 million. All they do is student aid, guaranteed by the U.S. Government. The guaranty agency, one in Indiana, USA—the chief executive officer earns $272,000. We pay the President of the United States $200,000. And that one guaranty agency is spending $750,000 on lobbying on this.

We face a choice. Are we going to help students and parents and taxpayers or the banks and the guaranty agencies? It is very, very clear. This is brazen, Mr. President. We have to help people.

Indiana University says there is 90 percent less paperwork with direct lending. 25 percent fewer errors, easier adjustments, faster disbursement. I have yet to hear a lot of talk about unfunded mandates, Indiana, USA.

This is a unfunded mandate you are imposing on colleges and universities. The chief of Sallie Mae's loan office, Indiana, USA, just said things about what we are doing. He said, "Cash In, Taxpayers Lose on Loan Programs," USA Today says.

Government employees—we hear a lot, let us simplify. This is what we are talking about. The current law, direct lending, will save us over 7 years, $4.6 billion. What we did on the budget resolution, we said count administrative costs for direct lending but not for the old program. So, because of the phoniness—and even the Chicago Tribune says they are cooking the books here—you theoretically save $600 million. The real saving is a saving of $4.6 billion.

If we are interested in helping students, colleges and taxpayers, we ought to be voting for the Kennedy amendment. The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. CORTON. Mr. President, I believe that it is important constantly, during the course of this debate, to return to fundamental principles. The broad policy goals which we, as a nation, are so eager to meet. No better place to start than with this fundamental principle enunciated by Thomas Jefferson almost two centuries ago. And I quote our third President:

"The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of Government. We should consider ourselves unrepresented in our Congress with our debts and morally bound to pay them ourselves."

The staff notes I have here with me this morning have, at one place, the notation, "they" that is to say the opponents to this resolution, "do not wish to balance the budget." But I do not believe that to be true. I have not heard any argument at any time this year from a Member of this body that has not offered lip service to the concept of a balanced budget. But, of course, there are three ways to do it. There are three kinds of oratory which give lip service to Thomas Jefferson's principle.

The first is to state the principle but always to have an objection to any course of action which will make that principle a reality. And that is the common approach of those who oppose the resolution we have before us today. The second way, a way that seems to have very little support on the other side of the aisle but clearly actsuates the President of the United States, is to define the problem out of existence. I will come back to that in just a moment.

The third way, the hard way, the difficult way, is actually to make basic changes in our spending policies, that will in fact lead us to a balanced budget.

To return for a moment to the President's approach of defining it out of existence, I would like to quote him. Just a little more than 2 short years ago, the President of the United States said: The Congressional Budget Office was normally more conservative about what was going to happen and closer to rights than previous Presidents have been. I did this so we would not be accused of budgeting with the same set of numbers. I did this so that one could say I was estimating my way out of this difficulty. I did this because, if we can look back on the most prudent policies we are likely to get if the recovery stays and we do the right things economically, then it will turn out better for the American people than we expected. In 1993, we faced a choice. Are we going to make the right changes in our laws and in our spending policies? And that is the right way, if we can change the laws so that some of the things that are presently done are no longer allowed, then we will have done a very smart act.

In those eloquent words the President said let us all agree that we will use the projections of the Congressional Budget Office. That was then. This is now. Earlier this year the President presented a budget to us which never, in his own words, included a deficit of less than $200 billion. Later, when it turned out that Republicans were serious about balancing the budget, the President said, "Me, too. I can do it. And I can do it without pain. I can do it without changing any major policies in the United States. I can do it by defining it out of existence. I will abandon my allegiance to the Congressional Budget Office. I will simply estimate that interest rates and inflation will be lower and revenues will rise so that we will not have to undertake any major changes at all we can balance the budget." So he defined the problem out of existence.

The day before yesterday in this body we had a straw poll as it were, on whether or not the President's approach was acceptable. We voted by a vote of 96 to nothing. The other side of this aisle, quite properly, rejected that approach. But it also rejects the approach of any significant changes. So, at the moment, neither we are debating education. They do not want any changes. Previously we were debating Medicaid. They do not want any changes. Before that we debated Medicare. They do not want any changes. In fact, you can go down a list of spending programs, and they do not want any changes. But they would like to have a balanced budget. It just is not a high enough priority.

Mr. President, to return to the Congressional Budget Office, we now know that we are not simply engaging in a game of whether or not it is appropriate to balance the budget. We know what the positive results of balancing that budget will be. The Congressional Budget Office says that if we change the laws appropriately, then the interest rates will be sufficiently lower and economic growth will be sufficiently higher so that the Federal Treasury will be $70 billion better off by the time the budget comes into balance in the year 2002. That is only the Federal Treasury. That is not the other hundreds of billions of dollars which will be in the
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pages of the American people be cause they have better jobs and higher wages.

That is what this exercise is all about. a better break for America.

So what are we proposing to do? We are proposing to say to the Americans, if you go through this process, we will make these changes we are going to give that $170 billion back to you in lower taxes on working Americans, and a little more besides because we have been responsible enough to balance the budget.

So when we get right down to it, Mr. President, that is what this debate is all about.

First principles—the moral duty not to load our spending on the backs of our children and grandchildren; and the economic benefit—an economic benefit I suspect Thomas Jefferson did not suspect—of acting in a responsible fashion, both because we will create more opportunity for our people and because we can appropriately lower our taxes.

That is the difference between the two parties. That is the difference between a yes and a no vote on this resolution.

The PRESIDING OFFICER (Mr. BURNS). Who yields time?

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

The PRESIDING OFFICER. The Senator from Massachusetts has 20 minutes and 54 seconds.

Mr. KENNEDY. I yield 4 minutes to my colleague.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Senator for yielding.

I just could not help but hearing my friend from Washington saying we have a moral obligation. Yes. We do. We have a lot of moral obligations to our children and to the future. One of the most important obligations is to ensure that future generations have the ability to go to college, to compete in the world marketplace. That also is a moral obligation.

What this reconciliation bill does is pull the rug out from under that obligation that we have for future generations.

Mr. President, we hear a lot of talk about the tax breaks that are in this bill. Those of us on this side have been talking about the $245 billion tax breaks for the wealthy that will come at the expense of the elderly and Medi-care. There can be $11 billion cut in student aid in this bill, the largest cut in student aid in our history. But what we are not hearing about are the hidden taxes that the Republicans have in this bill, the "stealth taxes." This is what they are hitting students with to pay for those tax breaks for the wealthy.

This chart illustrates this right here.

This budget adds about $700 to $2,500 of debt per student by eliminating the interest subsidy during the grace period. That is a hidden tax on our students. It also includes up to $5,000 in additional fees for Drake University PLUS program by raising their interest rates. It is another tax on students and their families. It imposes a direct Federal tax of 85 percent on colleges and universities participating in the student loan programs of colleges. Of course, they are going to have to pass that on to their students.

Last, of course, it forces schools out of the direct loan program that has been so successful.

So we hear about the tax breaks to the wealthy. We do not hear about the stealth taxes that are in the Republican bill, and mainly it fails on students.

Mr. President, there was an article recently in the Des Moines Register which I ask unanimous consent to have printed in the RECORD at this point.

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

[From the Des Moines Register]

THE REALITY OF CUTTING STUDENT AID
(By Rekha Basu)

If you want to talk to Robin Kniech, you'd better catch the Drake University junior early. Before she heads for class or checks in at one of her five jobs, which add nearly 40 hours to her already full load.

Robin Kniech, 20, is a three-time sitting, secretarial and other work. Kniech just manages to eke out her $1,200 tuition contribution. The rest of the $14,100 is made up from merit-based scholarships and college loans.

Last week, which was Save Student Financial Aid Week, sponsored by Drake Democrats, Kniech was also out rallying students against proposed cuts to federal student aid. For her, it's a subject of more than political interest. Any cuts, however small, could tip the delicate balance she has crafted to get a college education.

"I don't have any financial support from my parents," says Kniech. "I don't have any more than $50 a month from my loans. At one time, I used to have $300 in aid. I probably wouldn't be in school."

Just when you start thinking there's no other sacred zone left for congressional Republicans to cut, along comes another. If it isn't school lunches or aid to families with minor children, or programs that give disadvantaged pre-schoolers a fighting start, if it isn't rolling back federal standards governing the care of elderly in nursing homes or the health care of low-income people, then it's gashes into the very programs that enable people to go to college so they can hope to get decent jobs. At Drake, several hundred students could be lost, according to John Parker, director of financial planning. Some 60 percent of Drake students need-based assistance.

This is a tough issue to get your arms around, given the rather confusing tangle of college-aid programs and formulas. But the bottom line is: Congress takes $10.4 billion out of student-loan entitlement programs and apply it to deficit reduction. The legislation targets Stafford loans—private loans from the federal government, which you might remember as Guaranteed Student Loans. That's what they were called when I got one for graduate school. A whopping 80 percent of undergrads and 49 percent of undergraduates now get them.

It also hits loans to parents to help finance their kids' educations and several loan programs originating with the federal government but administered by the university. So if the Perkins loans, which the Perkins alone would knock off aid to 90 Drake students.

Some proposals that might seem benign can be quite deep. One would disallow recipients of subsidized Stafford loans (those given to the highest-needs students) to start accruing interest charges immediately on the grace period if they have. The added debt could be just enough to derail Kniech's plans to join the Peace Corps. This hits at high-need students harder than anybody else, says Parker.

There's also a proposal to raise the cost of Direct Federal loans by $500 or so, which would knock out scholarships. Pell grants, disqualifying some 250,000 students nationwide, costing 75 Drake students about $40,000, and affecting students' eligibility for other grants. And more.

If you're tempted to argue that a student like Kniech should see her savings on a less costly education, forget it. She couldn't afford community college. She'd have to pay more than twice what she's paying out of pocket.

Viewed piece by piece, the cuts may not look much like. And Drake Republicans have countered with flyers pointing to the program which aren't still under attack (but contain no increases for inflation), or the growth in funding of the Pell grant program. So we hear about the tax breaks to the wealthy. We do not hear about the stealth taxes that are in the Republican bill, and mainly it fails on students.

Mr. President, there was an article recently in the Des Moines Register which I ask unanimous consent to have printed in the RECORD at this point.

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

[From the Des Moines Register]
Mr. President, here is what is happening at one of our state universities, the University of Northern Iowa, the University of North Iowa, the University of Southern Iowa, and the University of Central Iowa. For the 1990-91 school year the average loan of a student per year was $2,589. That was in 1991. Today that is up to $4,395. And, if this reconciliation bill passes, that is going to climb even higher. This bill will increase debt on students. That is going to discourage students from going to school and seeking a higher education. 

Who does it hit? It hits moderate-income families the hardest. That is why we have to defeat this reconciliation bill and make sure that these students can get a decent education.

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

Mr. KENNEDY. I yield 4 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Thank you, Mr. President. I appreciate my colleague yielding me this time.

Mr. President, I am a cosponsor of this amendment and strongly support this amendment. Many good arguments have already been made here this morning. In fact, the chart used earlier by my colleague from New Mexico I think makes the case. Seventy percent of the cuts proposed in the bill before us will fall on students and their families. 30 percent are industry losses. I suppose there are not many people here in this body who would understand what this will mean to millions of Americans. The impact seems relatively minor when you start talking about about $100, $300, or $500 a year. But they are not minor costs for most Americans.

There is a failure to appreciate, whether it is Medicaid, Medicare, health care, student aid, or tax credits, it seems like anything large in the context of people of the upper-income levels, to working families in this country, these amounts make the difference between getting an education, getting health care, losing the job, or falling back into poverty. And for many of these families, they will be hit time and time again by the provisions of this bill—they will pay more in health care, receive less earned income tax credit and pay more for college.

Our colleague from North Dakota the other day offered an amendment on the cuts in Medicare. He said cannot we forgo the tax breaks for people making in excess of $250,000 a year? The savings to us would be $50 billion over 7 years. If we just said nobody over $250,000 gets a tax break, we would save $50 billion. If we had followed that amendment. But this Senate said no. We are even going to provide the tax breaks for people making in excess of a quarter of a million dollars.

Just think what that $50 billion would do. We would not have to be debating this amendment. Mr. President, we believe that $50 billion could go to these middle-income families out there that are going to feel the pinch in higher education.

Mr. President, we all appreciate and know that in a global economy in the 21st century, we are going to have to produce the best-educated, and the most ready generation that this country has ever produced if we are going to be effective. That is common sense. Everyone ought to understand that.

Yet as you increase these costs on these families, we are going to watch students fall through the cracks. We are going to lose that talent and ability merely because we want to provide a tax break for the 10 percent of our population of a quarter of a million dollars. I do not know anyone who believes, if you have to make a choice as to which of those two groups you benefit when there are scarce resources, it ought not to go to people who have a future of a million dollars rather than to those of modest means pursuing higher education.

I think it is regretful. I think it is sad, indeed, that this institution could not make the simple decision of saying to those at the highest incomes: Wait a while. Maybe next year or the year after we can provide a tax break for you. But right now we need to assist families struggling to meet the costs of higher education.

This $7.6 billion is going to fall heavily on those families out there trying to make ends meet, trying to send their kids to college and trying to make difficult choices that make this possible.

Let me just quote one recent survey. It shows that business that made an investment in the educational attainment of their work force—as reported by corporate managers—resulted in twice a return in increased productivity of a comparable increase in work hours and nearly three times the return of an investment in capital stock. That is corporate managers talking about the importance of investments in education. I hope this amendment is adopted.

There are 11 million young Americans who are in public higher education institutions. Can we today offer some relief, some hope for them even if it means saying to those making more than a quarter of a million a year, you are going to have to wait a while to get your break, to see to it that those 11 million families, those 11 million children get the opportunity for a decent education? That choice ought to be clear.

I urge the Senate to adopt the amendment.

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

Mr. ABRAHAM. At this time I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Mr. President, I wish to thank my colleague from Michigan. I compliment him on his leadership. I just mention that many of the allegations and the arguments that are made are certainly not taking a look at the overall big picture.

I wish to help students, too. I understand that there may be a leadership amendment that is going to make some modifications in the proposals that are being discussed. I think I will wait for the discussions on the specifics until that amendment is offered. It will be accommodating some of the concerns that have been raised because I think we all have a deal in mind right now. That costs a little money. But I will tell you the best news we could give my kids that are going to college is to balance the budget. We only have one chance to balance the budget. That is the proposal that the Republicans have put forth that will give us a balanced budget.

I remember going to a town meeting not too long ago and somebody who was about 23 years old raised their hand and said: Senator, will I ever see a balanced budget in my lifetime? They were just as serious as they could possibly be. Later today, or maybe tomorrow, we are going to be voting on a balanced budget. And there is only one. President Clinton does not have a balanced budget. We do. When you think of somebody going to college and talking about college loans, what a deal in mind right now that they inherit such enormous national debt. Let us at least stop it.

The only proposal that we have before us to stop it is our proposal to balance the budget. Now, we may make some modifications in the proposal to alleviate some of the concerns that have been raised specifically dealing with student loans. So again I will leave that alone for the time being.

Let us talk about what we are doing for all American families. I heard my colleague say, well, this is $10 billion. We are giving American families $140 billion of tax cuts. If they have children, they get a tax cut under our proposal. $500 per child. If you have four children, that is $2,000. That is pretty significant. And families get to decide if they want to use that money for education, for transportation, or for other things. Families then make that decision. I think that is important.

I also want to talk about the benefit of a balanced budget for the average American family. If you have a $100,000 mortgage—it seems like that is a large amount—but that is just part of today—you will have savings—it is estimated by independent sources that by having a balanced budget you will
have a 2-percent interest rate reduction, maybe as high as a 2.7-percent reduction on a $100,000 mortgage. That boils down to a savings of over $2,000 per year, actually $2,162 per year.

Also, if you have a student loan, let us say an $11,000 student loan, that is $216 in savings just in the fact that interest rates have come down. If you have a car loan of, say, $15,000, you have savings of $180. Those total savings of $2,500 per year if we are able to bring interest rates down by balancing the budget. So I think students have a real interest in seeing us balance the budget.

I also want to talk about some of the misstatements that have been made. Are families better off at different income levels? Because I heard some people say some lower-income families are getting a tax increase. That is totally false, totally, completely false. And so again I wish to look at what happens to families under this proposal. Families that make, say, $50,000 a year, they do not pay any income tax. They pay zero income tax. Right now they get an earned income credit of $1,800. They get it under present law. That is what they are going to get under our proposal.

What about families making $10,000? They still do not pay any income tax. They get a $3,110 EIC. Next year they are going to get an increase that goes to $3,200.

What about families that make $15,000? Right now, they get a check from Uncle Sam of $2,300. They do not write Uncle Sam a check. They still pay zero income tax and next year they are going to get a bigger check, $2,488. So that is an increase. That is an improvement.

What about families that make $25,000? Well, they get an EIC of $832. Within a year they are paying zero tax next year. They are going to get from us, EIC goes up to $1,429.

You might say, why? Well, the tax credit increases. That is the tax deduction so they get a higher EIC.

What about a family that says, makes $30,000. You have a lot of families making $30,000 that are sending kids to school. Right now, they are writing Uncle Sam a check for $929. Under our proposal, they will receive an EIC of $1,717 and pay no income tax. That is over a $1,000 improvement for that family. And actually every family below here will receive an over a $1,000 improvement. Right now, if they are writing checks for $2,000, they will write a check for $900. That is over a $1,000 improvement.

A $40,000 family would write a check to Uncle Sam right now with two children, $3,500. Under our proposal, they will write a check for $2,400. Again, they save $1,100. They save in the child credit. They also save from the reduction in the marriage penalty.

A family making $50,000 would write a check for $5,000. Under our proposal, they will write a check for $3,900. They will get a $1,100 savings. They can use that money for education. Our whole proposal is targeted at families, and families can decide how to spend that money. And people who are concerned about education. We are going to let them keep their money so they can decide how it should be spent. I think that is awfully important.

We also have a lot of people that bothers me because it is not factual. Lower-income groups are going to have their taxes raised. Not true. In many cases they are alluding to earned income credits, and so on. Those grow. I happen to be pretty bullish with them. I am going to put them in the RECORD. Maybe everybody can be familiar with them. These credits are growing every year. We give taxpayers a tax cut if they have children and they want their children to go to school.

It is interesting: after the debate we had last night, somebody called my office at 11 o'clock and said: I am going to put my daughter, who is going to school, going to college received an earned income credit of $300. He said the reason why I am embarrassed is because I am a million- aire. But in present law they qualify. Does that make sense? I said, well, why would your daughter qualify? Well, she forgot to tell them that I gave her $18,000 to support her college education. But under present law she can qualify if she does not report that income. Now, we try to tighten down on EIC, so we report other income and say that income should be counted.

Right now with EIC, you qualify under the program if you make less than $26,000. Under our proposal we allow that to grow to $29,000. Some people say that is a Draconian change because the administration wants you to qualify for EIC if you make $34,000. That may be the case in Alabama: that may be the majority of people in Michigan, maybe in Oklahoma. There are a lot of people in our State that make less than $34,000.

So we are going to tighten down now you can qualify if you have income less than $26,000. We allow that to grow under our proposal to $29,000. But the administration wants it to grow to $34,000.

I had a millionaire call me last night and say, "My daughter received a benefit that I don't think she should have. I think you're right. I think a lot of people don't have this benefit that they shouldn't. Let's try to target our assistance to those people who really need the help."

That is what we are trying to do. target our assistance. Some 70 percent of this package is directed at American families that make less than $75,000 per year. Those are the families that are sending their kids to school. So let us respect and people with children. And let us make some of the changes that are necessary to make our economy grow.

At the same time, let us balance the budget. I am really excited about the opportunity to balance the budget. I am bothered by the fact that the President of the United States had a press conference yesterday and he said, "Look how great we are doing. The deficit has come down 3 years in a row. We are making real progress."

What he forgot to show is what happens in the future. According to the Congressional Budget Office, his deficit grows. He talks about $164 billion in 1995, and it is less than it was the year before. I think that is great. I do not think he is entirely responsible for that. What happens in the next 5 years? Well, the Congressional Budget Office says that it will be $210 billion in the year 2002. He forgot to tell everybody the deficit is going to go from $164 billion to $210 billion and over $200 billion almost every year, according to the Congressional Budget Office.

That is not acceptable. There is a change. Some of us are very, very concerned about it. We want to balance the budget. Some of us voted for a constitutional amendment to make us balance the budget, and we failed. We lacked one vote in the Senate. But we also said we should look at whether this amendment passes or not.

Many people on the other side of the aisle said, "We should pass a balanced budget. We don't need a constitutional amendment that to make it happen. If we had the right composition in this body, they would be correct."

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oklahoma has spoken for 10 minutes.

Mr. NICKLES. I ask for an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for an additional 2 minutes.

Mr. NICKLES. It would be correct if we had the composition in the body that would vote for a balanced budget. But let me tell my colleagues that it is not correct. If we do not balance the budget unless or until we are willing to contain the growth of the entire budget. And we have already had votes to say, "Oh, let's not reduce the rate of growth in Medicare. Oh, we're cutting $270 billion in Medicare."

The facts are, in Medicare, this year we are spending $178 billion in Medicare, and in the year 2002 we are going to spend $286 billion in Medicare. That is a significant increase. It is a 7 percent increase over that entire period of time. 7 percent per year.

So I'm not cut out Medicaid for crying out loud. No. Medicaid is too sensitive. They forget to tell people Medicaid in the last 4 years has grown as much as 28, 29, 13, and 8 percent. Make that in 5 years that Medicaid has exploded in costs. Many States have figured out ways to dump their liability on the Federal Government. It used to be a 50-50 share for most States. Now it is 45-55, figuring out ways to make it 70 percent Federal Government. 50 percent State. We are trying to reform that and curtail that growth.

Mr. President, I think it is awfully important we balance the budget, and
EARNED INCOME TAX CREDIT

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Source: Joint Committee on Taxation; Provided by Senator Don Nickles; 10/20/95.
The Earned Income Tax Credit is a credit given to lower-income working families to help offset the burden of payroll taxes on income. The EITC was begun as a modest program to help offset the burden of payroll taxes on income and to encourage them to work more. But the program grew in 1986, when President Reagan proposed a $150 million increase and signed it into law. By 2002, families making $34,612 will qualify for EITC benefits. The EITC is a massive income transfer scheme. New IRS figures show that in 1993 the top 5 percent of American earners paid 47 percent of the federal income taxes. Under the tax law that President Clinton promoted and signed two years ago, by 2002 families making $34,612 will qualify for EITC benefits. The Senate wants to scale that figure back to $30,000—which seems pretty sensible for a government that already owes its creditors $4.9 trillion. At its core, the EITC is a massive income transfer program that has vastly expanded under Democratic administrations. The road to a $5 trillion national debt is paved with good intentions.

### Table: Earned Income Tax Credit

<table>
<thead>
<tr>
<th>Year</th>
<th>Credit percent</th>
<th>Maximum credit</th>
<th>Min. income for credit</th>
<th>Max. income for credit</th>
<th>Phaseout income</th>
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<tr>
<td>1993</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
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<tr>
<td>1994</td>
<td>9%</td>
<td>4,000</td>
<td>1,000</td>
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<tr>
<td>1995</td>
<td>9%</td>
<td>4,500</td>
<td>1,400</td>
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<tr>
<td>1996</td>
<td>9%</td>
<td>5,000</td>
<td>1,800</td>
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<tr>
<td>1997</td>
<td>9%</td>
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<tr>
<td>1998</td>
<td>9%</td>
<td>6,000</td>
<td>2,600</td>
<td>5,400</td>
<td>n/a</td>
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<tr>
<td>1999</td>
<td>9%</td>
<td>6,500</td>
<td>3,000</td>
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<tr>
<td>2000</td>
<td>9%</td>
<td>7,000</td>
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<tr>
<td>2001</td>
<td>9%</td>
<td>7,500</td>
<td>3,800</td>
<td>7,200</td>
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<tr>
<td>2002</td>
<td>9%</td>
<td>8,000</td>
<td>4,200</td>
<td>7,800</td>
<td>n/a</td>
</tr>
</tbody>
</table>

The EITC was begun as a modest program to help offset the burden of payroll taxes on income and to encourage them to work more. But the program grew in 1986, when President Reagan proposed a $150 million increase and signed it into law. By 2002, families making $34,612 will qualify for EITC benefits.
Mr. President, the Congress passed the Higher Education Act amendments in 1992 to bring help to those who practice self help. It was meant to be Federal help to middle class families who are drowning in debt and trying to send their children to college.

Yet, imposing a new tax is not only a hit on colleges and students, but also a hit on parents trying to help pay for their child's college education. This reconciliation bill increases the interest rate on student loans and increases the overall cap on that interest.

Mr. President, promises made must be promises kept. By cutting student loan limits, this cuts the promises we made to students, to parents and to colleges.

I believe in rewarding the good guys in our society who work hard and play by the rules. That means giving help to middle-class families where moms and dads struggle—maybe even working two jobs—to pay tuition to send their son or daughter to college.

Mr. President, if these families are paying loans on top of loans. We cannot turn our backs on them now.

Our students need our support through Federal financial aid programs or through innovative initiatives like national service. But, we are doing away with those opportunities too.

National service gives students an alternative way to afford college, and at the same time, national service helps meet some of our community's most critical needs.

As an appropriator, I know firsthand how the Federal government can come up with a balanced check book. But education must be our No. 1 priority. It is with me. It is for parents and students who balance their own check books every semester. It is for parents who choose, or are forced to choose. This provision would saddle even more students, particularly low-income students—under the proposition to students that everyone has to help balance the budget.

Mr. President, college is no longer a luxury. It is a necessity just to stay competitive in the job market. It is a dream come true for parents of first generation college students to see their children walk across the stage. We believe students have the chance to pursue their dream through earned opportunities. To rob them of this opportunity is robbing America of its future.

I hope every member of the Senate will support Senator Kennedy's amendment to strike the student loan provisions from this bill. It is an important investment to this Nation's students and it is important to America's economic future.

Mr. President, first I want to thank the Senator from Massachusetts for his great leadership on preserving student aid. He has moved quickly at every opportunity to stick up for students and parents, and his amendment today is sorely needed.

Mr. President, student aid has a proud history in this country. Much of my generation went to college on the GI bill. Then we passed the Higher Education Act of 1965, helping boost college attendance to today's levels. Of the 13 million students in college today, half of them receive Federal grants and loans under that Act.

Economically, budgetary, morally, this bipartisan policy of making student aid a priority has been right. Economic analysis shows that we have benefited for 40 years from our GI bill investment. Recent analysis shows that the investment in education is twice as productive as other workplace investments. And the lower income people in our society should not be shut out of an affordable college education. We need to make every effort every year to make sure that our higher education assistance policy builds our country rather than dividing it.

But Republicans are come this year with the proposition to students that everyone has to help balance the budget. Students should take some time in the library and study this bill. Every one does. It is the largest. It is for parents and particularly low-income students—are asked to pay $10.8 billion more. But others—other subsidies will be paid to banks. It could force graduates to settle for lower paying, less desirable jobs immediately upon graduation rather than providing them a reasonable opportunity to secure higher paying employment that better matches their skills and desires.

Mr. President, the last major COP education initiative is the proposed 0.85 percent fee hike in PLUS loans. Economic analysis shows that we have benefited much larger than the student loan cuts. In other words, this Congress could easily choose not to make students pay more, but the Republican leadership thinks it is more important to give more to certain constituencies before the next election, all the while crying balancing budget.

Let me be specific about how Congress could avoid cutting student aid in this bill:

First, we could lower the brand new tax break in this so-called budget-balancing bill from $245 billion to $235 billion.

Second, we could trim back the proposed defense increase of over $50 billion.

Third, we could refuse to provide a new tax break for corporations currently paying the minimum allowed, which is what is offered in this amendment.

The fact is, all of these alternatives—and many others—are unacceptable to the Republicans that wrote this budget because student aid was a much lower priority than new tax breaks.

Mr. President, the student aid provisions are shameful. If students and parents knew what was in this bill, they would think we had gone off the deep end. This is not the way we balance the budget. It is the way we pay for the next election and reduce the opportunities for thousands of economically disadvantaged students who would not be able to qualify for guaranteed loans.

Second, the 20 percent cap will ultimately drain the Treasury of billions of dollars because reinsurance fees and other subsidies will be paid to banks. Direct loans have been a good saver because they cut out the middleman, reduce administrative overhead, and increase accessibility. Only the banks and other financial institutions stand to profit from the changes in this bill.

Third, capping direct loans will effectively limit one of the most important side benefits of the program—providing competition to the banks. Without the direct loan program, the lending industry would be free to raise interest rates on their own student loan instruments, increasing borrowing costs to those who choose to use private lending sources. This in turn is likely to lead to additional defaults, the costs of which will be borne by the taxpayer. I would be curious to learn the components of free enterprise explain this clearly anticompetitive initiative.

Mr. President, the last major COP education initiative is the proposed 0.85 percent fee hike in PLUS loans, elimination of the tax break for refinancing, and the imposition of a 20 percent cap on direct student loan volume, and an .85 percent school tax based on the institution's student loan volume. If you wanted to undermine deliberately higher education, it would be hard to come up with a more destructive list of proposals. Plain and simple, these education cuts are irresponsible.
percent tax on schools. Like the other proposals, this is a regressive initiative that will discourage schools from participating in the student loan program and force them to pass on the costs to students through increased tuition, and require them to tap into their already dwindling student financial aid budgets. Again, as with the other initiatives, this provision will disproportionately impact students from low- and middle-income families. It is ironic that as Republicans trumpet a $245 billion package of tax cuts that largely favor wealthy Americans, they seek to impose an indirect tax on students and families who can least afford it.

Mr. President, these are some of the reasons why I oppose the education provisions contained in this measure. When added to the proposed wholesale reductions in discretionary education programs—from Head Start to Goals 2000, to campus-based aid—this constitutes a plan to reduce access to quality education and harm our ability to compete in an increasingly sophisticated international marketplace.

Reducing investment in education, which is already inadequate, will inevitably limit economic growth and undermine the standard of living of middle-class Americans in the 21st century. And it will close the window of opportunity for the economically disadvantaged among us who are pursuing the American dream.

Mr. President, reducing our commitment to an educated, skilled workforce in the name of deficit reduction is shortsighted and terribly misguided. As this country struggles to find its way in a global marketplace dominated by cheap foreign labor and high technology, withdrawing our investment in education amounts to economic suicide.

This budget proves that Republicans are more committed to protecting the interests of the haves than in accommodating the aspirations of the vast majority of Americans who want only to improve the quality of their lives through hard work and education. Again, I believe this is a pennywise, pound-foolish approach that is shortsighted, mean spirited, and will cost the taxpayer money in the long run.

If this budget is implemented, students of modest means may have to forgo a college education; others who are already struggling to achieve their baccalaureates may have to forgo their dreams of pursuing graduate study. And those students who leave college in the future will be saddled with huge debt burdens at a time when they are least likely to be able to afford payments.

The proposals contained in this measure, in concert with the proposed reductions in fiscal year 1996 education appropriations, will undoubtedly ensure that our future work force is less educated, less productive, and less well off. This in turn will reduce the Nation's tax base, placing further upward pressure on the deficit—exactly the opposite effect from the stated purpose of this budget plan.

This wholesale disinvestment in our most important resource, our young people, is not merely shortsighted, it is blind. Blind to the imperatives of the new global marketplace. Blind to the effect that cuts in education will have on our ability to prosper in an increasingly complex world, and blind to the effect it will have on our deficit.

But competitiveness, economic viability, and individual opportunity will not be the only victims of the proposed cuts. There is an entire sense of civil community, of history, of tolerance, the ability to conduct informed, rational discourse—these are also the potential victims of this harsh and ill-conceived budget plan.

For education is not just about making enough to feed the kids or to buy a new car or to own a home—it is also about preparing ourselves to carry out the responsibilities of citizenship in the world of tomorrow. Mr. President, no sane nation embraces ignorance. Yet, this is what the proposed resolution would have us do. I therefore urge my colleagues to reject this war on education. Opposing the education proposals contained in this measure that threaten our future.

Mr. KENNEDY. How much time do we have?

The PRESIDING OFFICER. The Senator from Massachusetts has 14 minutes.

Mr. ABRAHAM. I am prepared to yield my time.

Mr. KENNEDY. I was just going to yield 4 minutes to the Senator from Washington, and then we go with your side.

Mr. ABRAHAM. Fine.

Mr. WELLSTONE. Will the Senator yield?

Mr. ABRAHAM. The Senator from Idaho?

Mr. ABRAHAM. The remainder of my time.

Mr. WELLSTONE. OK. Thank you. The PRESIDING OFFICER. The Senator from Washington is recognized for 4 minutes.

Mrs. MURRAY. Thank you, Mr. President.

I thank my colleagues from Massachusetts for this amendment. As I sit here and listen to this debate today, I cannot help but wonder how many of our colleagues depend upon financial aid to advance their education and build the foundation for their careers. This is a highly educated body. And judging from the vast array of degrees that are conferred upon my colleagues, I would have guessed that many were dependent upon Federal assistance to finish their schooling.

However, the proposal to eliminate $1 billion in student loans forces me to question whether any of my colleagues on the other side of the aisle ever relied on financial aid to get an education. I can tell you I would not be here today without Federal assistance that made my college education possible.

I will also tell you that working families will be the hardest hit by this gutting of our student loan program. These middle-income families often do not qualify for full scholarships and cannot afford to pay full tuition, particularly when $20,000 a year for tuition is today's norm in higher education. Why sacrifice our Nation's future by limiting educational opportunities for young people?

This bill could have targeted the students in the industry, but instead 63 percent of the bill's student loan cuts fall directly on students and their parents. Take for example the increased rates on PLUS loans that are taken out by parents. I can tell you as a parent of two children entering the post-secondary world, I am concerned that families across this land will find these new loans out of reach. This aid is particularly important to those families with students who do not have enough equity in their homes to take out a tax-deductible home equity loan.

Mr. President, I am extremely concerned with the proposal to eliminate a small but very important element to those entering our work force. All of us realize the difficult challenges facing today's college graduate. The limited prospects of employment, coupled with financial independence, on top of an already mounting educational debt, and many of our graduates today in fiscal hardship before they are ever able to contribute back to our society.

To help these individuals during this difficult time, we have provided a 6-month grace period on their loan once they finish school. This is not loan forgiveness. It does not lead to increased competitiveness, economic viability, and individual opportunity will not be the only victims of the proposed cuts. There is an entire sense of civil community, of history, of tolerance, the ability to conduct informed, rational discourse—these are also the potential victims of this harsh and ill-conceived budget plan.

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sacrifice our next work force for the sake of quick economic savings. We all mortgage our economic prosperity. The one percent drag on our economic growth impacts every single working family who wants to know that their child will be able to go on to college. In this country that we are so proud of, that is obviously unfair for anybody to portray.

The choice here is how we are going to balance the budget. The Republicans keep coming back and saying, 'By God, the only way we are going to deal with the deficit or balance the budget is to go through the next generation's income.'

Mr. President, I yield back my time.
They want to continue the Market Promotion Program. They want to take a $5 million asset on a trust fund and give people a $1.7 million tax break. It is a question of how we are doing it.

What we all understand is, we should not be doing it at the expense of students and at the expense of the colleges and the universities. We have entered into the Direct Loan Program so that you can put more money back into the pockets of the lending institutions. It just does not make sense.

The Senator from Idaho stands up and says, "We are going to take a lesser amount of money, but we are still going to be able to give you the same amount of education." I wish he had been there yesterday when the chancellor of the University of Massachusetts and the folks from Lowell, MA, and New Bedford and Fall River, which have 15 percent unemployment, working class people came in and said to me, "Senator, if these cuts go through, our students are going to drop out of school." And they are going to drop out of school because they are going to have $5,000 additional costs in interest on the PLUS loan that is going to be $700 to $2,000 of debt because they eliminate the interest subsidy on the six-month grace period. They are going to have to pay a transfer tax on colleges and universities participating in the student loan program, and they are going to end the direct program, the universities, direct participation.

Mr. President, those kids cannot go to school paying that additional money. But they are giving the money to people earning more than $300,000, and to all of these other interests. They are continuing additional defense spending. The question is how we will balance the budget. It should not be done on the backs of the future generation in education.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. Yes.

Mr. DOLE. I ask unanimous consent that I may use a portion of that leader time without it being charged against either side.

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

REPORTS OF WAR CRIMES

Mr. DOLE. Mr. President, today's Washington Post reveals shocking news of the ongoing genocide in Bosnia. The Star of Srebrenica after this so-called safe area fell to Bosnian Serb forces in July. Twelve thousand men from this U.N.-designated safe area tided to flee to Bosnian Government-held territory and were half-heartedly butchered by forces under the command of Gen. Ratko Mladic.

Yesterday's Christian Science Monitor reported that Serb officers—from Serbia—actively participated in the massacre of Moslems from Srebrenica. No doubt about it, General Mladic and his forces are responsible for these war crimes. But, these reports beg the question: What was the role of the Yugoslav Army in this attack on Srebrenica and the subsequent massacre of Moslems? And more importantly, what was Slobodan Milosevic's role in these savage war crimes?

Reportedly Mladic is often in Belgrade—where he coordinates with senior Serb officers, including the Chief of Staff of the Yugoslav Army. The Yugoslav Army has continued to actively assist Bosnian Serb forces. And Bosnian Serb and Serb air defenses are integrated.

The bottom line is that the Congress—and the American people—need to know what the administration knows about the relationship between Bosnian Serb forces and the Yugoslav Army, and the relationship between General Mladic and Slobodan Milosevic. We need to know everything the administration knows about Milosevic's possible culpability in this hideous war crime.

Frankly, I am highly skeptical that the buck stops at General Mladic. In any event, these questions need to be answered by the administration now.

Next week, the proximity talks will begin in Dayton and Serbian President Slobodan Milosevic will attend. We must know whether he is rolling out the red carpet for a war criminal. We need to know who the administration is dealing with—the butcher of the Balkans or the peacemaker of the Balkans?

Furthermore, the President should publicly commit his administration to ensuring that these war crimes will not be swept under the rug as part of the price of peace settlement. If Milosevic's responsibility is in question, he should be held accountable—even if this complicates the peace negotiations.

Mr. President, if the administration fails to effectively address the matter of war crimes in the former Yugoslav state, the Congress will. The fiscal year 1996 foreign operations bill includes an amendment I offered on the Senate floor which would prohibit bilateral assistance to any country that provides sanctuary to individuals indicted by the U.N. War Crimes Tribunal on Yugoslavia. It also instructs U.S. representatives in multilateral institutions to vote against aid to any country that provides sanctuary to indicted war criminals.

The United States is the leader of the free world—this requires not only political, but moral leadership. We cannot repeat the United Nations' grievous error of looking the other way when confronted with enormous crimes against humanity.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have 30 seconds to thank the majority leader for his statement.
have probably 30 seconds left. If you want to do deficit reduction, cut the subsidies for the pharmaceutical companies, cut the subsidies for the insurance companies, cut the subsidies for the tobacco companies; do not spend more money on stealth bombers and Trident in Gill of the rest, and do not have tax cuts that disproportionately go to the wealthiest people.

Do not do deficit reduction by denying all too many young people—and not only young people, because many of our students are older—their opportunity for a higher education. I am proud to be an original cosponsor of the Kennedy amendment. It speaks to basic economic justice. I hope 100 Senators vote for it.

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

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes 12 seconds.

Mr. KENNEDY. I yield myself 4 minutes, Mr. President.

Mr. President. I want to repeat what I mentioned at the outset, that our amendment is indeed neutral. We have been asked about that.

Mr. President. in the final few moments, I have been amazed by the silence of our Republican friends in defending an indefensible policy. Silence in defending a policy that will put stranglehold on the sons and daughters of working families trying to achieve a better education. The most that was said in defense of this indefensible policy, Mr. President, by one Member of the Republicans, is that this proposal is "changing the parameters of the obligation." Let me tell every working family in my State and across the country the truth. This Republican proposal is going to mean more dollars out of your pocket and more obligations on the students of this country.

In the final breath, Mr. President, there is an extraordinary reliance on our Republican friends on raising revenues. In their proposal, they put a tax—described by the majority of the Republicans as "fee"—on every educational institution in this country.

They would mandate a tax on every educational institution. The cruellest part of all is that the amount of that tax increases as they provide more and more assistance to the neediest students at that school. The institutional tax goes in the opposite direction of every educational policy that we have made in the last 30 years. It requires more and more payment by the students and daughters of working families and the neediest families. That is just an extraordinary admission. Mr. President, of a bankrupt effort by our Republican friends by taxing these working families.

In the Republican proposal, working families are going to have to pay more out of their hard-earned income because of the tax increase in the EITC. Then, the same working families are going to pay more out of scarce sources for the copays and the deductibles we will have to have.

Because of reductions in Medicaid, these working families are going to pay even more to provide health care coverage for their children.

For what reason? To give a tax break for the wealthiest individuals and the wealthiest families. That is what this is all about. They are taking the money out of the pockets of the neediest families in this country and transferring it to the wealthiest individuals. That is the parameter of the obligation that our Republican friends refer when they try to justify their position.

Mr. President, this bill and these cuts are too harsh and too extreme. But, in addition to their cold heart, Republicans are now getting cold feet. The verdict of the American people is coming in.

Republicans are being found guilty beyond a reasonable doubt of hurting senior citizens on Medicare; guilty of hurting the elderly in nursing homes: guilty of punishing innocent children on welfare; guilty of closing college doors to the sons and daughters of working families; guilty of pandering to polluters and endangering the environment; guilty of massive giveaways to powerful special interest groups: guilty of taxing low-income workers; guilty of taxing hard-pressed college students to give tax breaks to millionaires.

Whatever became of the anti-tax Republicans? I say shame, shame on the Republican Party for using their majority power to hurt the vast majority of Americans. This bill will be dead on arrival at the White House, and we ought to bury it right here in the U.S. Senate.

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

Mr. KENNEDY. Mr. President, I hope we have an opportunity to vote on this amendment soon.

What is the Chair's understanding about when we will be able to have a disposition of this amendment?

Mr. EXON. Mr. President, if I could answer briefly the Senator's question. It is a good one.

We have been trying to work on this since yesterday afternoon. It appears we are very close to agreement that allows us to start voting up or down on these amendments sometime early this afternoon and very late into the evening.

Mr. KENNEDY. Would the Senator yield half a minute on the bill?

Mr. EXON. I yield.

Mr. KENNEDY. Mr. President. I have heard that my Republican colleagues are trying to doctor up some different amendment. I hope we can move in an expeditious manner. I yield 8 minutes off the bill to my colleague from North Dakota.

Mr. DORGAN. Mr. President, I have been puzzled here for nearly a day and a half because we have some very important decisions to make in the U.S. Senate, one of which deals with Medicare, and we are not voting on them.

Reconciliation is a process that provides us 20 hours. We offered an amendment that does not take great skill to reconcile. That is a very simple proposition. It has been almost 20 hours since it was offered yesterday on the floor of the Senate, and no vote. Why no vote? Is it hard to understand? Are people still reviewing this? No, that is not what we have been doing.

I understand we may be getting close to an agreement. And I hope we are, because if we are not, we are going to start reading this legislation—maybe two or three times. It is 1,949 pages. Given us Tuesday night to come to the floor Wednesday morning.

Most people here do not have the foggiest notion of what is in it. Most of us have some suspicion about what is in it. Most of us believe the richest people in America are going to do worse, not better tighten your belt because this is coming your way, and this is not good news for you at all.

If you are an elderly person, dependent on Medicare or a poor person on Medicaid or a middle-income family dependent to send your kid to school or a poor mother who has a child in Head Start. The news here is pretty grim. It says we cannot afford you. It says you better tighten your belt because this is coming your way, and this not good news for you at all.

I think some of the pieces of the puzzle are starting to come into focus about who is fighting for whom. Whose side are you on?

Here are a couple of pieces of that puzzle. This was in the paper yesterday. One of the new Republicans over in the House of Representatives says the Democrats once again have it all wrong. They claim the GOP's proposed $50 tax credit for families earning up to $200,000 is a tax cut for the rich. He says those folks are lower middle class. Heineken, former Raleigh Police Chief, told the Raleigh News and Observer that his salary of $133,000 plus $5,000 a year in police pensions does not make me rich. He does not make me lower middle class. In my opinion that makes me lower middle class.

This new Republican, this fellow that has new ideas and came with a notion of change says, 'When I see someone who is making anywhere from $300,000..."
to $750,000 a year, that’s middle class.” He said, “When I see anyone above that, that’s upper middle class.” Oh, red tape. These are the new ideas? Middle class at $750,000 a year? Now I can understand why they tell us their tax cut is aimed at the middle class. Now it is clear to me. I understand how those pieces to the puzzle start to fit.

Another big piece—in fact, it is the centerpiece for this puzzle in this morning’s newspaper—the Speaker of the House, speaking candidly to Blue Cross Blue Shield, an insurance company, says this in talking about Medicare:

Now let me talk about Medicare . . . we don’t get rid of it in round one because we don’t think that would be politically smart.

Let me say that again. The Speaker of the House says, and these are people who say, “We love Medicare; we want to save Medicare.”

We don’t get rid of it in round one because we don’t think that would be politically smart. But if we don’t think that, that’s the right way to go through a transition. But we believe it’s going to wither on the vine because we think people are going to voluntarily leave.

Now, put these pieces into the puzzle and see if you do not start getting the message. These are people who are going to save Medicare? No, I do not think so.

Round one. They do not get rid of it in round one. But guess what? This is a 10 rounder, and by the end of this match they plan on getting rid of Medicare. This is all about the middle class—yes, their middle class—somebody making $75,000 a year.

I said, good news and bad news around here. I was watching Star Wars the other night with my children. I have not seen that for a long time. Do you remember the characters in Star Wars, R2-D2 and C3-P0? I was thinking, if children in this society had names with numbers maybe they would do better; right?

In fact, give some numbers that do well. I said that a lot of folks do not do well in this. A lot of kids do not do well. Fifty-five thousand kids, all of whom have names, will no longer be in Head Start because the majority cannot—afford them in the Head Start program. A kid by the name of Tim or Martha or Tom, they get bad news. No Head Start program.

But if you had an initial like a B-2 or an F-15 or a UH-60 Blackhawk—go down this list. I do not have time. But this is a list, all of which represent spending add-ons; in other words, money that the Defense Department did not ask for. These are virtually inoperable ships, fighters, bombers, star wars, and on and on and on that the Defense Department said they did not want, they did not need, and they did not need.

Guess what? The conservatives say, “We insist you buy it because we got the money to pay for it.” And then they bring 2,000 pages out here to the floor and say, “We are sorry. We are broke. You are poor? You are young? Out of luck.”

So we say to them on Medicare, on our first amendment, offered nearly 30 hours ago, how about establishing priorities here? How about at least forgetting the tax cut notion you got for the wealthiest Americans and using some of that money to provide Medicare for the elderly? Do you know what, 30 hours later we cannot get a vote. Why can we not get a vote? Is it because they cannot understand the amendment? No. It is because they are stalling. They do not want to vote on the amendment.

One way or another, somehow we are going to vote on this amendment. We might stand here for 6 days, but we are going to vote on this amendment, and we are going to vote on the education amendment, and we are going to vote on the next amendment which is fiscal responsibility, which says do not give a tax cut until we have a balanced budget.

I am a little disappointed about what has been going on the last 30 hours. I can understand a shuffle when I see it. I can understand a stall when I see it. But nobody ought to claim to us they do not understand this issue. After 30 hours you would think everybody understands it well enough to have a vote.

So, it is 10 minutes to 1. How about a vote at 1 o’clock? Why do you not give the elderly in this country an opportunity? Express yourselves and give us an opportunity to express ourselves about tax cuts for the rich and Medicare cuts for the rest? Let us decide if we are going to have a vote soon.

If we are near an agreement, I say fine. I want us to have an agreement and get through this. But I say, at the end stage of this process, that I happen to know about a few people in this room who know what is really at work. We have a Medicare amendment on the floor. The Speaker of the House gives a speech to Blue Cross/Blue Shield. He asks the wealthiest in our country to save Medicare. And here is what he says in his speech. “We don’t get rid of it in round one because we don’t think that would be politically smart.”

We understand what that means about round two. That is why this is important. That is why there is some passion in this debate, about a lot of folks who have reached their senior status in life and fear they are going to get sick and they are not going to have the money to deal with that illness. This is important.

Mr. President. I ask for I additional minute.

Mr. EXON. I am sorry. Another 30 seconds. I am trying to conserve time on this side.

Mr. DORGAN. I yield the floor to the Senator from Nebraska.

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

Mr. SARBANES. Mr. President. I listened very carefully to the very distinguished Senator from North Dakota. What is the date of that speech the Speaker made when he said that this is only round one to get rid of Medicare?

Mr. DORGAN. The speech apparently was given the other night, October 24.

Mr. SARBANES. On the same day, October 24. Senator DOLE made a speech. Listen to this. “I was there. Fighting the fight, voting against Medicare.”

Mr. EXON. I yield the floor to the Senator from Nebraska.

Mr. DORGAN. I yield to Mr. EXON. Now I yield to Mr. EXON. It is a fact that they are against Medicare or that this is only the first round in getting rid of it.

The PRESIDING OFFICER. The Chair will advise the Senator 30 seconds has expired.

The Senator from Nebraska.

Mr. EXON. Mr. President, as I understand it, we are now prepared to go to the amendment. The Senator from Nebraska.

The Senator from Arkansas with 30 minutes equally divided: is that correct?

Mr. ABRAHAM. Yes. We are prepared for that.

Mr. EXON. So I hope the Chair could recognize the Senator from Arkansas, following 1½ minutes that I would like to yield at this time to the Senator from Vermont.

The PRESIDING OFFICER (Mr. DeWINE). The Senator from Vermont.

Mr. LEAHY. Mr. President. I have repeatedly said on the Senate floor that balancing the Federal budget is so important we need to set our partisan differences aside.

Unfortunately, balancing the budget was the most serious problem facing our country—until today.

The American people are fed up with Washington—and how can you blame them.

The single working mother who is holding two jobs to take care of her children should expect nothing less than having the Federal Government pay its own bills.

Vermonters must balance their checkbooks each month, why should the Government that they send their taxes to not be held to the same accountability.

Mr. President. Republicans laud this budget reconciliation bill that we are debating today as the solution to the deficit problem.

Well, this bill may balance the budget but the wake it leaves behind threatens to irreparably divide our country. This bill is a cruel prank on hard working Americans who have asked Congress to get our budget in order.

The Republican leadership has answered the call to balance the budget with a plan that radically redistributes the wealth of our country.

Playing on the desires of hard working Americans, the Republican leadership has seized the opportunity to protect the wealthiest in our country.
This plan balances the budget on the backs of the people who are working the longest hours, in the lowest paying jobs.

Ironically, as these Americans have shouted out the loudest about getting our fiscal books in order, they will be the ones who feel the pain the most.

Under the guise of saving Americans from the burden of debt, the Republican leadership has devastated programs that help hard working men and women realize the American dream of economic opportunity.

We are told that in order to save programs, we must first kill them so that 7 years from now they will emerge solvent and robust.

It is a leap of faith that I cannot make, much to my embarrassment, because my distinguished colleagues in the majority have been telling us what a bold and courageous moment in time that they are seizing.

They are the self appointed saviors out to rescue us from the trillions of dollars of debt accrued during the Reagan-Bush administrations. They need to explain that latter part—no doubt an oversight—and in the press of time, it is perfectly understandable why the subject never arises.

A case in point is education. This bill makes cuts in education. It cuts student loan programs by $10 billion over the next 7 years.

Students will be hit with 70 percent of these cuts—increasing the costs to the average Vermonter receiving higher education and their families by at least $5,800 over the life of a student loan.

Congress should be working to make education more affordable—not less.

These additional financial burdens will discourage many students from continuing their education after high school.

The Contract With America has sold the people of the nation a bill of goods with a few months ago.

Governors are increasingly wary of this, because the cost for maintaining any of these programs will rest squarely on the local taxpayers.

We know that Medicaid is a life-line to provide essential health care to low-income pregnant women, children, the disabled, and the elderly.

It is also the safety net that rescues middle-class families when a factory closes down and the jobs that are available do not provide health insurance.

It spares middle-class families from choosing between nursing home care for a parent or financing the college education of a son or daughter or forced to live with substandard care in disreputable homes.

It replaces these safeguards with 50 separate State plans with no standard minimum requirements.

I have been pleading for Congress and the President to join in bipartisan negotiations on balancing the budget without jeopardizing the success of our health programs.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:—The Senator from Arkansas [Mr. BUMPERS] moves to commit the bill S. 1357 to the Committee on Finance.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading be dispensed with.

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

The motion is as follows:

Motion to commit with instructions

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to delay the effectiveness of any revenue reductions until the first fiscal year in which outlays no longer exceed receipts.

Mr. BUMPERS. Mr. President, this is very simple and straightforward. The Members of this body should vote for this on a purely intellectual basis, without regard for partisanship. That is hard for me to say, and I know it is hard for people around here to respond to that kind of request. But it simply says: Do not cut taxes until you balance the budget.

We are working through some very, very tough terrain," he said, acknowledging that most battles lie ahead.

"But I am convinced that most people remember not too many months ago that this idea had great credence in this body, on both sides of the aisle. I had even hoped at one time that the chairman of the Budget Committee, the Senator DOMENICI, would join me, today, with this amendment saying we are not going to cut taxes until we balance the budget. Here is what Senator DOMENICI said on May 29, this year, just a few months ago:

"We are working through some very, very tough terrain," he said, acknowledging that most battles lie ahead.

"But I am convinced that most people would join me in the view that we must balance the budget first before we cut taxes."

Here is a chart for anybody who chooses to look at this thing economically and sensibly. Here it is. You cut taxes, according to Mr. DOMENICI, the figure that is bandied about here, and if you cut taxes by $245 billion over the next 7 years you add $293 billion to the national debt and our children and grandchildren will pay interest on that $293 billion as far as you can see.

I do not want to mix Social Security in this, but when you add this $300 billion, also bear in mind there are about

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S 15750

CONGRESSIONAL RECORD—SENATE

October 26, 1995
Mr. EXON. I thank my friend and ask unanimous consent that, rather than longer speeches, one Senator at a time be given the right to make an opening statement, which will be followed by 5 minutes each to 25 minutes per side.

Mr. EXON. Will the Senator yield for anyone wish time? I yield the floor to the distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Arkansas.

This tax package which is contained in the massive budget reconciliation bill is ill timed. It is inequitable. It provides the $224 billion tax break which, when fully phased in, would go to the wealthiest 14 percent of Americans. Instead of helping the working people and real middle-class Americans.

Mr. President, I yield the floor. Does anyone wish time? I yield the floor to the distinguished Senator from Michigan.

Mr. PRESIDING OFFICER. The Senator from Michigan.

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the surplus in the Social Security Trust Fund to mask the real Federal deficit. The law, section 1301 of the Congressional Budget Act, states:

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 concurrent resolution 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.

And, the law further states:
The concurrent resolution shall not include the outlay 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 in an annual surplus or deficit total required by this title.

We’re not only spending the dollars before they are in the bank, we are spending them earlier and faster than we are even projected to have them to spend.

Nearly half of the savings in this budget are projected to come in 2001 and 2002, while the tax breaks are set in law now. In fact, the budget resolution assumes $440 billion in discretionary cuts over 5 years. Only $18 billion of that would be cut next year, less than 5 percent. We know from past history what happens when tax cuts are put into law now while most of the actual cuts are to take place later.

Some of our Republican colleagues have appeared in public statements, to agree that a tax cut should be put off until we are sure deficits will drop as predicted. Let’s join together on a bipartisan basis and do just that.

I yield the floor.

Mr. BUMPERS. Mr. President. I yield the Senator from Wisconsin 5 minutes.

Mr. ABRAHAM. I will have somebody for the Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair.

Mr. President, this amendment is simple and straightforward. It eliminates the fiscally irresponsible and reckless tax cut that is the core of this fatally flawed reconciliation package.

All the other provisions of the reconciliation bill, in my view, flow from this singular act of fiscal irresponsibility.cuts to Medicare and Medicaid, student loans and the earned income tax credit, as well as the other provisions in this measure. all driven by the need to fund a quarter of a trillion dollars of tax cuts. And, with no consensus the public would support that I think they do not have any hope their supporters might have of really balancing the budget.

Mr. President, just as we are beginning to climb out of the hole that was dug 14 years ago, somebody wants to shove us back in.

Mr. President, we have made remarkable progress in lowering the Federal budget deficit during the 103rd Congress. The President’s deficit reduction package produced $800 billion in lower deficits and got us about half the way there—almost half the way there to a balanced budget. from over $300 billion to about $160 billion. In fact, Mr. President, for the debts ruing up during the 1980’s, we would be in balance today.

But we still do not have a balanced budget, and we cannot afford any tax cut—not the President, not the House, not the Senate tax cut. We need to balance the budget. That should be our first priority.

Actually, Mr. President, this bill is really an alchemist’s dream. Those who have crafted this measure have finally invented a machine that makes gold. The reconciliation bill really amounts to just that. It is a machine that makes gold. All you do is feed health care services for the most vulnerable among us in our Nation, and out comes gold.

Hence, President, not every one shares equally in that bounty. The gold from this machine largely benefits the best off in our Nation. The better off you are, the more you get. The less well off you are, the less you get.

I am not going to dwell any further on the distribution issues relating to the tax cut. As I have noted many times on this floor: this issue comes to me as an issue of pure fiscal responsibility. Even if the savings and benefits of tax cuts were more fairly distributed, I would oppose it. We cannot afford to cut taxes while we still face a Federal budget deficit of $160 billion. Nobody out there believes that makes fiscal sense. It is the opposite of sense. And you cannot spend $1 three times. You cannot say you are spending the dollar once. This budget uses it twice. We are even projected to have them to spend.

We are even projected to have them to spend.

Mr. BUMPERS addressed the Chair.

Mr. ABRAHAM. He mentioned the Tax Code, what is wrong with it. And I understand why. It is enormously popular. Go take a poll and ask people: Would you like a tax cut? Heck, yes. I would like a tax cut: the bigger the better.

So I understand why it is there. This is about polls and focus groups and finding out what is popular—let us give them a tax cut. I wonder how the American people would feel if they were told that the biggest dollar of those tax cuts would be borrowed in order to give it. In other words, we are going to increase the Federal debt during these 7 years with this plan by $660 billion roughly—this plan, a $600 billion increase in the debt and then a $45 billion tax cut. In other words, every single dollar plus more will be borrowed. We will borrow money, float bonds to give a tax cut. a substantial portion of which will go to upper income Americans.

I think most people would say, well, that does not make much sense. But that is not what this debate is about—sense. If it were about sense, we would not even have to offer this amendment. We would have people say let us do the honest work and the tough work, the heavy lifting to balance the Federal budget. Let us do that. When we are done with that, then let us talk about the Tax Code, what is wrong with it. how do we fix it, who gets a tax cut.

That is not what we are doing. What we are doing is pretending to balance the budget and saying now that we pretend to balance the budget, we will offer up a tax cut. Unfortunately, we have a letter dated October 26 from the Director of the Congressional Budget Office. I asked, is the budget in balance. I am sorry: I have a hard time breaking the habit.

Mr. ABRAHAM. I have someone here shortly. If the Senator has a short speech, we would be ready to go after that.

Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I hope the previous amendments, this one is also painfully simple. It is an amendment that will not take a dozen staff to explain, an amendment that will not take a great deal of research, an amendment that probably should not take a great deal of thought. No one can misunderstand what this is. This amendment says we ought not do a tax cut until the budget is balanced. Do not serve dessert before the main course.

It is a pretty simple proposition. My expectation is they will not want to vote on that either. We have been here 30 hours. They do not want to give a vote on Medicare so we will not get a vote on this. One of these days we will, I guess.

Let me talk about the proposed tax cut. This is the center pole in the tent called Contract With America. This is the center pole of the tent, the tax cut. And I understand why. It is enormously popular. Go take a poll and ask people: Would you like a tax cut? Heck, yes. I would like a tax cut: the bigger the better.

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Mr. ABRAHAM. Is the Senator referring to me?

Mr. ABRAHAM. He mentioned the Tax Code, what is wrong with it. And I understand why. It is enormously popular. Go take a poll and ask people: Would you like a tax cut? Heck, yes. I would like a tax cut: the bigger the better.

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Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from North Dakota.
the opportunities created by pro-growth policies, and President Clinton to produce a tax cut, fine. But of course, you will have made a decision to cut taxes, so let me give the money out of my employees' pension funds and use it on my operating statement, you will be doing years at hard tennis as a security prison. Instead, it is 'budget technique' to say, let us misuse Social Security trust funds, show a balanced budget in the year 2002 by misusing that money, and then claim we have a balanced budget so we are going to give a tax cut. Every single dollar of this tax cut will be borrowed in the next 7 years and every Member of this Senate knows it. They can pretend they did not hear or they did not know; it escaped their attention. But they know it. This amendment is very simple. It is called a 'fiscal responsibility amendment.' It says, let us do the tough, honest work first, get our hands wet, balanced, really balanced, and then let us decide how to fix our tax system.

Having said all of that, I hope one of these hours we will get a vote first on Medicare and then on the sequential amendments because these are not difficult for anybody to understand. The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABRAHAM addressed the Chair. The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself such time as I need. I will be very brief, and then I will yield further time on our side.

Mr. President, the fact is it is not surprising that the minority is arguing against tax cuts. They are the party that raised taxes in this country in the last 6 years. This record-setting $2.3 trillion deficit in my State and across America, everywhere I go, the people I talk to say we need a tax cut to make ends meet. The middle-class squeeze we talk about all the time is a small measure the result of the fact that today in America average families send $1 to Washington for every $4 they earn versus $1 for every $50 they earned back in the 1950's and the 1960's. Those are the families who are paying the bills and paying the taxes.

As we go through the belt-tightening process here in Washington to bring down this deficit, believe it is only fair to let those hard-working families keep more of what they earn. What we have been presented with today is an amendment that says to all of those families, Wait. Wait. American families, wait. Americans are counting on the $500 tax credit. Wait, spouses who work in the home, before you get your IRA. Wait, to people who want to adopt and need a little help making an adoption feasible, and then single parents who need the opportunities created by pro-growth tax cuts.

We believe the waiting should be over. We say this: If America's taxpayers want to wait for the Democrats and President Clinton to produce a tax cut, fine. But we have already gone through a lot of waiting for the tax cut this year. The President's 1992 campaign was funded by the President. It has never been delivered. The waiting that this amendment suggests will have to continue will also be undelivered. We are prepared to allow hard-working families to realize tax savings, and I hope the President will keep his promises. At this time I yield 6 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we have entered a new age in American politics. All of us know that. The days are long gone when elected officials can get elected, duck controversy, avoid hard choices, and, yes, hide from the judgment of the people. Governing in 1995 requires hard choices, adherence to principle and accountability. As party defections increase, as State legislatures and Congress take these hands, my former colleagues on the other side of the aisle scratch their heads and ask why. The answer is simple, Mr. President. On the other side of the aisle there is no courage, no willingness to make hard choices.

Instead, I believe they remain wedded to the status quo politics and policies that have led this country to the verge of bankruptcy.

For 60 years the other side has steadfastly created a Federal monster that now handles $1 out of every $4 in our economy. While the growth of the Government that past half century is stunning, it should come as no surprise to all of us. The politics of the status quo promoted on the other side of the aisle operate on the simple premise that the American people will always trade their freedom and their hard-won dollars for the promise of Government security. It should come as no surprise to any of us, the American people will always trade their freedom and their hard-won dollars for the promise of Government security.

"Tax and spend." Yes, Mr. President. "tax and spend, and the docile American people will never resist. Tax and spend, and spend. The American people will never support the reform or repeal of a Government program. Make the American people dependent on the Federal Government for everything from income and health care to business subsidies, and they will never resist or even reject us."

These, Mr. President, I believe, are the maxims by which the agents of the status quo operate. But, Mr. President, the agents opposed to change have vastly underestimated the American people. The reason, Mr. President: The price of a balanced budget is so high that the American people will reject any politician who attempts to do the things that will get us into that balance. They are dead wrong. We are allowing families to keep more of their hard-earned dollars, and we are ending welfare as we know it, and, above all, we are balancing the budget. The reason, Mr. President, we are voting for this amendment, and I urge my colleagues to vote for this amendment, and I have voted for significant deficit reduction over the past 2 years. But reducing the deficit cannot be accomplished if we are simultaneously cutting taxes for the wealthiest of Americans.

This is fiscally irresponsible. This highlights the Republican's real priority in this reconciliation bill—cutting taxes for the wealthiest Americans. Balancing the budget must be based on principles that uphold basic values. Protecting our seniors, providing opportunities for our young people, and protecting the ladders of opportunity for working families are my guiding principles. This reconciliation legislation violates those principles by gutting Medicare and Medicaid, cutting student loans and repealing the earned income tax credit (EITC).

The fact is Mr. President, the Republican tax cut would add nearly $300 billion to the national debt by 2002. All but the last few billion of the tax cut is borrowed money, under the Republican own deficit reduction timetable.

This reconciliation bill is fiscally irresponsible—and don't think otherwise. Requiring the budget to be balanced before we cut taxes is the responsible, fair, and principled action to take. That's what this amendment ensures. This amendment also ensures that future tax cuts will be targeted to low and moderate-income working American families, not the wealthiest Americans. That is why I support this amendment and urge my colleagues to support it.

Mr. President, the tax cuts proposed by the Republican Congress are fiscally disastrous. I urge my colleagues to vote for fairness and common sense and vote for this amendment.

Mr. ROBB. Mr. President, I have long believed that it was time for courage and wisdom to develop and implement a plan that would lead to a balanced budget. Without the courage to make tough choices and the wisdom to place budget policy above partisan politics.
our ability to develop an equitable plan that can stand the test of time and public scrutiny remains severely limited.

While I give other Republican friends credit for bringing this package to the floor, I must say that a certain element of this plan does not reflect courage, wisdom or equity. A particular concern to me is the tax breaks which have been included in the bill.

Mr. President, it does not take courage to cut taxes. That is one of the easiest votes a legislator can cast. What takes courage is to revisit politically popular tax cuts at a time we have a large deficit, and add to the debt over the next 7 years.

Mr. President, I was one of three Democrats who supported the original Senate budget resolution this year because I strongly believe that we have a responsibility to make tough choices that are necessary to balance the budget.

Unfortunately, during the budget resolution conference between the House and the Senate, fiscal responsibility gave way to political expediency as tax breaks were added up front, and the deep spending reductions moved into the next century. Were these particular changes wise? In my judgment, absolutely not.

I think most in this Chamber would agree we should not be cutting taxes until we prove capable of carrying out these spending reductions and actually balance the budget. If we get further down the road and decide to spend more, that will be our decision.

The last point I would like to address is equity. Including the tax cut in this plan is not equitable. At a time when we are asking the American public to sacrifice by restraining the growth of programs which benefit low and moderate-income individuals, how can we, in good conscience, adopt a tax cut which, according to the Treasury Department estimates, will disproportionately benefit upper-income Americans?

Including $245 billion in tax cuts in this budget package is not courageous, it is not wise, and it is not good policy. I would implore my colleagues to reject the proposition that we should have tax cuts before we have a balanced budget.

With that, Mr. President, I yield the floor, and I thank the Chair.
the higher tax rate, the Treasury loses more from a taxpayer in the one income (the tax revenue at 3%) than it gains from the higher tax rate on the remaining $50,000 of income above the $140,000 floor ($2,000 more revenue at 3% versus $184,000 at 42.5%). The Treasury collects $200 less than it would have if there had been no tax rate increase. Simply put, cutting the ceiling on the payroll tax base would be less than $1 billion.

All of this stands in sharp contrast to the official revenue estimates produced by the staffs of the Treasury and of the Congressional Joint Committee on Taxation before the 1993 tax legislation was passed. Their estimates were based on the self-imposed "convention" of ignoring the effects of tax rate changes on the amount that people work and earn. The Treasury's revenue increase would not be surprising if the taxpayer response to the 1993 tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax rate change. The increase of their taxable incomes would have been if they had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random anonymous tax returns provided by the IRS.

We concluded that the high income taxpayers' responses to the 1993 tax rate changes, the increase of their taxable incomes provides a basis for predicting how taxable incomes would have increased in the high income group if its members had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random anonymous tax returns provided by the IRS.

The sensitivity of taxable income to marginal tax rates is quantitatively similar to the magnitude of the response that I found when I studied taxpayers' responses to the tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax rate cuts was found in the first year: it would not be surprising if the taxpayer responses get larger as taxpayers have more time to adjust to the higher tax rates by redefining their income as much as they can reduce their taxable earnings by a combination of working fewer hours, taking more vacations, and shifting compensation from taxable cash to untaxed fringe benefits. Investors can shift from taxable bonds and high yield stocks to tax exempt bonds and stocks with lower dividends. Individuals can increase tax deductible mortgage borrowing and raise charitable contributions. If income effects are important, the response to the 1993 tax rate changes did not raise the top capital gains rate above its previous 28% level.

To evaluate the magnitude of the taxpayers' actual responses, David Beamberg at the National Bureau of Economic Research (NBER) in 1993 and I studied the published IRS estimates of the 1992 and 1993 taxable incomes of high income taxpayers (i.e., taxpayers with adjusted gross incomes over $200,000, corresponding to about $140,000 of taxable income). We compared the growth of such incomes with the corresponding rise in taxable incomes with adjusted gross incomes between $50,000 and $200,000. Since the latter group did not experience a 1993 tax rate change, the increase of their taxable incomes provides a basis for predicting how taxable incomes would have increased in the high income group if its members had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random anonymous tax returns provided by the IRS.

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In Congress had known in 1993 that raising top marginal tax rates from 31% to more than 43% would less than $7 billion a year, including the payroll tax revenue as well as the personal income tax revenue. It might not have been possible for President Clinton to get the vote in 1993. Which brings us back to President Clinton's own statement (half-recanted the next day) that he raised taxes too much in 1993. Congress and the president will soon be negotiating about the final shape of the 1995 tax package. The current congressional tax proposals are dynamic because they take into account some taxpayer behavior. The 1993 experience shows that as a practical matter, the official estimates are close to being true.

The official estimates are dynamic because they take into account some taxpayer behavior. The 1993 experience shows that as a practical matter, the official estimates are close to being true. The Treasury's revenue estimates presented to Congress in 1991 grossly understate the increase of taxable incomes the impact the 1993 tax legislation was passed. Their estimates were based on the self-imposed "convention" of ignoring the effects of tax rate changes on the amount that people work and earn. The Treasury's revenue increase would not be surprising if the taxpayer response to the 1993 tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax rate change. The increase of their taxable incomes would have been if they had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random anonymous tax returns provided by the IRS.
It is remarkable, Mr. President, in addition to not needing to cut taxes, we have got plenty of tough choices to make and I hope we will be able to move to a balanced budget. But those are not the only goals that we need to move toward. That is not the only status quo that we need to make. We had another million Americans that moved into the ranks of the uninsured in 1994. We have another 1.5 million that will move to be uninsured in health care as a consequence of what is happening in the health care industry.

Almost 50 percent of the babies born in the State of Texas are paid for by Medicaid, working people. Mr. President, as a consequence of the status quo, there are lots of changes that need to be made. I am willing to make tough votes to change the status quo and move to a balanced budget, but not with a $245 billion tax cut that does not benefit the Americans that need to be benefited.

Mr. BUMPERS. How much time remains?

The PRESIDING OFFICER. Three and a half minutes.

Mr. BUMPERS. I yield 2 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleagues for yielding.

Mr. President, really what we are suggesting with this amendment is two concepts here: It is fiscal responsibility and equity. I know that there are those who believe that these tax breaks are critical. Some, I believe, honestly believe, I think, this is going to create some sort of a massive new growth, although there are no studies that I know of that indicates that is the case at all. But the cruel hard facts here, Mr. President, are that what we are talking about is a deficit that will increase.

According to the hand-selected head of the Congressional Budget Office by our friends on the other side, they have said this produces a deficit, this proposal, in excess of $93 billion. So for those who are seeking fiscal responsibility, the inclusion of $245 billion in tax breaks does not get us there.

So, Mr. President, on the question of fiscal responsibility, this is irresponsible. On the issue of equity, what we are seeking here with this proposal is we are taking significant cuts, far beyond what is needed to restore the integrity of Medicare or Medicaid, in order to pay for tax breaks, the bulk of which go to people in the upper-middle category and simultaneously increase the tax obligation of those people at the working class category.

If you make $30,000 or less, you have got a $35 tax increase. That is what is in this bill. It is black and white, a $35 tax increase.

If you are the top 1 percent of income earners, your tax break is almost $6,900. That is not equitable. Mr. President, it is not fiscally responsible, and it is not equitable. And for that reason, we urge our colleagues to support this amendment.

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

Mr. BUMPERS. Mr. President, let me just close by saying that I can remember when there were about 10 Republicans last summer who were strongly opposed to a tax cut until we balanced the budget. I do not think the majority leader was very keen for it. And the Senator from New Mexico, chairman of the Budget Committee, was devoutly opposed to it.

So what happened along the way? I can only conclude that NEWT GINGRICH said, "This is the major part of the contract. You do not have any choice. You have got to abandon all economic reason and sanity and vote for this tax cut.”

It is the height of fiscal irresponsibility to do it. But even more importantly, it is a social disaster. It makes the working people of this country second-class citizens. They are in the second-tier. I do not want to say the idle rich, but the rich who do not work, who get their income from the sweat of somebody else’s brow, they are in the first-class tier.

Mr. President, the real tragedy is the American people are not asking for this. If you look at the New York Times poll this morning, the American people are strongly opposed to a tax cut until we balance the budget. Here is a USA poll taken in December of 1994. Seventy percent of the people in this country said, "We want the budget balanced before you cut taxes.”

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

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Michigan controls 19 minutes. The time has expired on your side.

Mr. ABRAHAM addressed the Chair.

Mr. ABRAHAM. Mr. President, at this time, we are prepared to yield back the remainder of our time. I inquire before I do as to whether the Senator from Nebraska is prepared to proceed with their next amendment? If not, until the Majority Leader will probably be putting in a quorum call request without the time running against either side.

Mr. President, I yield back the remainder of my time. I suggest the absence of a quorum, and I ask unanimous consent that the time not run against either side.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.
own family. To invest in their own future.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time allotted be reduced to 15 minutes, equally divided.

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

Mr. ABRAHAM, Mr. President, on behalf of our side, we will agree to that.

Mr. BAUCUS. Mr. President, the whole country knows about the Medicare cuts in this budget, and the threats they present to rural hospitals and to health care for seniors.

A lot of you know that a few days ago, the House Speaker NEWT GINGRICH called this bill the round one in a long-term plan to kill Medicare.

Many people know how deeply it will cut student loans and assistance for elementary and secondary education.

THE 1995 FARM BILL

But very few people know that this year, the budget is also the farm bill. It will reauthorize all the commodity programs and the Conservation Reserve Program. It will eliminate a number of federal. Altogether, for the next 7 years, it sets our national agriculture policy.

It is supposed to keep rural economies stable, and it would guarantee consumers a safe and dependable food supply at a reasonable price. But on the Senate floor today, we have something entirely different.

I am sorry to say it, but laying everything about Medicare, tax increases on people making less than $30,000 a year. education and the rest, aside, this is a terrible farm bill.

WRITTEN IN SECRET

First, it is partisan. It is a hard-line, ideological ALL-OR-NOTHING approach to agricultural policy, not an effort to bring people together and take the best from everyone.

Second, it is secretive. It was written behind closed doors. And very, very few Americans even know it is on the floor today.

At an absolute maximum, the agricultural part of this budget will get a grand total of 30 minutes for debate. It is a scandal, but it is not a surprise. Because if this were my bill, I would not want to say much about it either.

But in any case, I want to welcome all my colleagues to the debate on the 1995 farm bill. I imagine the other side is a scandal. But it may be gone. But on the other hand, we have a lot more than a dream to go on. We have hard facts and numbers. And these facts and numbers tell us that our farmers have 7 pretty lean years ahead.

This bill makes dramatic cuts in farm supports which have already been cut 60 percent in the past decade. If this turkey survives Thanksgiving of 1995, the year 2002 will see us fund just half of today's Conservation Reserve Program. Bad for farmers, bad for hunters, bad for recreation.

The Emergency Livestock Feed Assistance Program will end. Our deficiency payments—the safety net our producers need in tough times—will be capped. In the very worst years, when our producers need help most, it won't be there.

Then look at nutrition. School lunch, daycare meals, and meals for senior citizens are all cut. And these are not surgical strikes—these are repeated blows with a meat axe.

These cuts affect more than farmers. They affect all of rural America. Small towns, grocers, bankers, fuel dealers, equipment and automobile dealerships, and even our local and county governments will all feel the pinch.

And we are doing all this at a time when the competition for the marketplace is not giving up a thing. They already give their farmers over 10 times the export subsidies we provide.

This budget cuts the Export Enhancement Program by 20 percent, and market promotion by 30 percent. We will end up exporting less, and that means lower incomes for farmers.

KEEPING YOUNG PEOPLE OFF THE LAND

Finally, maybe the most harmful item of all. That is the apparent exclusion of beginning farmers from all these services. This spring I went to a lot of high school graduations in rural Montana. Places like Geyser, Hobson, Stanford, Opheim, Harlem and Dodson.

We have some great kids in these communities. They are looking forward to a career in agriculture like their parents. They want to work and provide for their families on their own land.

This bill shuts them out and puts them at a competitive disadvantage. Combine that with the trouble young farmers have in obtaining credit, and
the message they get from this budget is clear. There is no place for you in production agriculture. There is no place for the small family farm in America.

OUR AMENDMENT: A SECOND CHANCE

Well, we can do better. And with our amendment, we will do better.

Our amendment is very simple. It says: 'Go back to the drawing board.' Take it back to the Finance Committee. Restore some sense and moderation to agricultural policy, nutrition and our rural economic approach as a whole. The amendment doesn't dictate how we should do it, but it gives us a chance to take a second look and get it right.

Let us remember the story of Joseph. He saw the 7 lean years coming. He told Pharaoh about his dream. And Pharaoh listened to Joseph. He changed his agriculture policy, promoted production, and stockpiled corn. And therefore Egypt got through the 7 lean years.

We can do the same. If the folks on the other side will listen, we can take advantage of this second chance. We can vote for the motion to recommit, and come back with a moderate, non-partisan farm policy that is good for everyone. I hope it will get the Senate's support.

Thank you, Mr. President, and I yield the floor to the Senator from Illinois.

Mr. BAUCUS. I yield 4 minutes to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, and I yield the floor to the PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield 4 minutes to the Senator from Illinois.

Mr. WELLSTONE. Mr. President, rural Illinoisans have told me, 'Just outside of Chicago, there's a place called Illinois.' That joke, or that phrase, used in the tourism industry, is based upon a no-time-left-when-people-think-of-Illinois-only-they-often-first-think-of-Chicago-and-the-rest-of-the-State-is-overlooked. And that part of the State, the part 'just outside of Chicago,' is rural. That part of the State has vital agricultural income, income that the Senator from Illinois has told me, you will discover more rural communities than any other State in the Nation except Texas.

In fact, when you discover that fully half of the 11.5 million people of Illinois live in the places outside of Chicago, that I think, paints a more accurate picture of what Illinois is about than what our popular mythology would have you believe.

The reason I mention that, Mr. President, is that what happens in this bill, in this Reconciliation Act, with regard to rural programs is, therefore, vitally important to the State of Illinois.

Senator from Illinois, is that what happens in this bill, in this Reconciliation Act, with regard to rural programs is, therefore, vitally important to the State of Illinois?

Mr. BAUCUS. I yield 30 seconds to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, rural Illinoisans have told me, 'Just outside of Chicago, there's a place called Illinois.'

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Rural people in Minnesota, the people of greater Minnesota, ask for one thing and one thing only: a fair shake. There is no fair shake and there is no fairness to this plan.

That is why I am proud to be an original cosponsor of this amendment.

Mrs. Murray. Mr. President, I rise to support this motion to recommit. I am deeply concerned about the Republican budget proposal and its all-out assault on rural America. I understand the need to balance the Federal budget. In fact, I've supported balanced budgets. But I do not think we should do it on the backs of our working families and farming communities. They deserve better treatment than that. Just because the voice of rural Americans is not heard as loudly on Capitol Hill as others does not mean they can be ignored.

This Republican budget attacks rural communities in my State of Washington. For example, the cuts to Medicare will force 157,700 older and disabled rural Washingtonians to pay higher premiums and higher deductibles for a weakened second class of coverage. The cuts will increase the severe financial pressure on rural hospitals in Washington. The average rural hospital will lose $5 million in Medicare funding over 7 years, forcing some to close their doors. In addition, the American Medical Association has stated that the Medicare cuts "will unquestionably cause some physicians to leave Medicare". Rural America is already suffering from a shortage of doctors when compared to the Nation as a whole and it will only become worse under this budget. Rural Americans will be paying more for less, and that is unacceptable.

In addition, the cuts will eliminate coverage for children, nursing home residents, and people in need of long-term care. As many as 2.2 million rural Americans, including 1 million children will be denied medical coverage. In addition, the Republican cuts to Medicaid will force 81,000 rural residents to lose their coverage. The cuts to Medicaid will force 157,700 older and disabled rural Washingtonians to pay higher premiums and higher deductibles for a weakened second class of coverage. The cuts will increase the severe financial pressure on rural hospitals in Washington. The average rural hospital will lose $5 million in Medicare funding over 7 years, forcing some to close their doors. In addition, the American Medical Association has stated that the Medicare cuts "will unquestionably cause some physicians to leave Medicare". Rural America is already suffering from a shortage of doctors when compared to the Nation as a whole and it will only become worse under this budget. Rural Americans will be paying more for less, and that is unacceptable.

Mr. President, this Republican plan to balance the budget by cutting away at the foundation of America's health care system and targeting American's efforts to support a solid future for themselves and their children.

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Mr. President, today my colleagues and I offer an amendment to the budget reconciliation bill that reaffirms our commitment to rural America. Before the Senate today will devastate the hard-working farmers and ranchers that provide our Nation's food supply. It will also decimate the main street businesses and industries that make up our rural communities. The agricultural cuts in this budget are too extreme, are unfair to rural America and should be restored. Our amendment proposes to do just that.

No one should be fooled. The agricultural provisions in this bill represent a recipe for a health care disaster in rural America. The sad truth of this situation is that it does not have to be this way. This severe level of cuts was required only to finance the lavish tax breaks for the wealthiest of Americans who do not need them. This amendment my colleagues and I are offering provides the opportunity to send the agricultural provisions back to the drawing board and to do it right.

Rural Americans deserve better than what they are getting under this budget. Farmers and ranchers are committed to balancing the budget as long as it is done fairly. Reducing farm income to pay for tax breaks is not remotely fair. No one is asking for a handout—only a fair shake. This budget gives rural America, the very heartland of the Nation, little more than a cold shoulder. We can and should do better than that.

Mr. Baucus. Mr. President, I yield 2 minutes to the Senator from North Dakota.

Mr. Dorgan. Mr. President, as I have said previously, this bill is about what they are getting under this budget. Farmers and ranchers are committed to balancing the budget as long as it is done fairly. Reducing farm income to pay for tax breaks is not remotely fair. No one is asking for a handout—only a fair shake. This budget gives rural America, the very heartland of the Nation, little more than a cold shoulder. We can and should do better than that.

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they threw it into a reconciliation bill and hoped nobody would notice. The approach is to say to farmers, do not worry. If you are a family farm-in trouble, move to downtown. That is their answer.

It is not an answer for North Dakota. In my budget, I have a lot of farm families rely on us writing a decent family farm program. These people work hard, and all they are asking for is a fair shake. We ought not to ask them to bear the entire burden of all the budget cuts. They have had a 60 percent cut in support prices alone in recent years. Now we are told to take a much higher proportion of cuts than virtually any other area of the Federal budget.

Frankly, it is not fair and it is not right. It ought not be done.

Mr. BAUCUS. Yield 3 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, 2 weeks ago I spent a crisp Monday morning at Claude Bourbeau's farm in St. Albans, VT, with Secretary Dan Glickman and a number of Vermont dairy farmers. I wanted to give him a chance to visit with some hard-working honest folks who will be severely affected by this budget bill.

Many of those farmers are concerned about this budget. I am too. I told the farmers that they lose thousands of dollars a year in revenue under the Senate Republican plan. I asked the farmers, 'Which of you could afford a cut like that?' Not a single hand went up.

It turns out that I was underestimating the impact when I was in Vermont. Just this morning, the Food and Agricultural Policy Research Institute and Texas A&M University released a new study. This new, independent study says that under the Senate Republican plan, a typical 70-cow dairy farmer in Vermont would see net cash income fall by $9,650—from $31,120 to $21,470—in the next year. The House Republican plan is even worse. It would cost a typical farmer $17,850. Farm income would decrease by $30,000—a family income tax credit, which Republicans cut.

In 1994, 328,000 farm families qualified for the EITC. Many of these were farm laborers, but 100,000 were farm operators and managers. Over one-third of all farmers and managers nationwide will see their taxes increase under this Republican budget.

This Nation's farmers are struggling. This budget says to them, 'Tough luck.'

The Finance Committee cut the EITC but it passed over $20 billion in tax breaks. Most of those tax breaks will benefit families earning over $100,000 a year. Only 5 percent of rural households earn that kind of money.

Several Senators addressed the Chair.

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

The PRESIDENT. Four minutes.

Mr. BAUCUS. I yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, this plan for rural America is the equivalent of dropping a neutron bomb in the middle of rural America. Remember the neutron bomb? That is where the buildings remain standing but the people are gone. That is what will happen in much of rural America if this farm plan and this plan for rural America ever becomes law.

The Republican plan would force farmers off the land. In a low-price year, it is a significant reduction in net returns to farmers in my State. It would close hospitals in rural areas. The hospital association in my State has just done a survey and they say 26 of the 30 rural hospitals in North Dakota would go to negative returns on their Medicare patients. It would shutter nursing homes and represents unilateral disarmament in the world trade battle in the agricultural trade.

We would pull the rug out from under our producers at the very time our competitors are already supporting their farmers at a level three times ours. That would be a profound mistake, not only for the rural parts of this country but for the trade balance of the United States.

Agriculture is one of the two areas in which we still enjoy a substantial trade surplus. It is not to wave the white flag of surrender in this trade fight. We would never do it in a military confrontation. We should not do it in a trade battle.

The PRESIDENT. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time I yield 5 minutes to the Senator from Iowa.

The PRESIDENT. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, obviously I rise to oppose the motion that is before us. It may be well intended, but let me tell you the simple truth is that this amendment will hurt the very people, the very rural America, and the very family farms that, according to their statements, it is intended to help.

People on the other side of the aisle probably do not intend it this way, but the fact of the matter is, with their tax policy, they do not believe in taxation, they believe in confiscation. Because, when you leave high estate taxes, when you leave high capital gains taxes, and the impact of inflation on each, you are in a situation where, when you tax inflation, it is confiscation and not taxation.

I am against estate laws, the way they are—and they have not been changed for 15 years: the capital gains taxes laws, and they have not been changed since 1986—are tying up a lot of property in rural America that will not move because people are not going to pay confiscatory, high rates of taxation. One sure thing, if you do not need the income and you do not have to sell, you are not going to sell and give it all to the Federal Treasury. The lifetime of the farms of America, the lifetime of savings is tied up just to create an income and a job for one family.

So, if you want to help rural America, we have to transfer the property from one generation to another, and I do not know how you are going to do that if you do not do it by increasing the exemption and encouraging people to keep their property.

People suggest what we are doing in this reconciliation bill on farm policy is wrong.

The fact is that the President's budget is not good for agriculture because it does not achieve balance in the next 7 years.

The Food and Agriculture Policy Research Institute ran some numbers on the impact of a balanced budget on farm income. They estimate that by the year 2002, under a balanced budget scenario, farmers will save $2.3 billion per year due to expected reductions in interest rates. It is important to note that farming is a very capital-intensive industry and benefits greatly from low interest rates.

Furthermore, FAPRI's preliminary numbers indicate that farmers' cash flow would be $300 million per year due to the increased economic activity resulting from the balanced budget.

So the net positive impact on farm income from a balanced budget will be $2.6 billion per year. This gain will be lost if we adopt the President's budget numbers.

Mr. President, another vital point that my Democratic colleagues fail to
mention is that their doomsday numbers on agriculture assume that the cuts will be made to the program as it is currently structured. They would want you to believe that the Republicans are taking $13.4 billion out of farmer's pockets.

This proposition reveals a lack of understanding about how farm programs work and a failure to recognize the important reforms contained in this bill. The next farm bill will significantly reduce the regulatory burden on farmers, allow them to be part of the marketplace, and continue to aggressively promote new markets and new uses for agriculture commodities.

Specifically, farmers will no longer be required to idle productive land because of a mandate from Washington. Furthermore, farmers will have the flexibility to produce whatever commodity they chose in response to market forces. To do reform measures along with reducing the regulatory burden and finding new markets for our products, will lead to an increase in farm income in the future.

In addition, payments to farmers will be reduced. But the future of U.S. agriculture must rest on the ability of farmers to earn income from the marketplace. The reforms to the programs contained in this budget reconciliation package achieve this goal and will allow our farmers to flourish.

So I urge you to vote against this motion. I yield the floor and yield the remainder of my time.

The PRESIDING OFFICER (Mr. Craig). Who yields time?

Mr. COVERDELL. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BAUCUS. Mr. President, we have moved away again a little bit and have gone into posturing this afternoon. I guess not unusually. There has been a good deal of misinformation floating around this budget and its effect on rural areas with respect to health care. Contrary to what we have heard, there are several provisions designed to recruit providers and to ensure that 24-hour emergency care is available, which we have not had in my State, even though the Senator from Montana has had some in his.

It is interesting, also, that several of the provisions talked about here my friend from the other side of the aisle supported last year when they were in the Clinton health care plan—reducing the updates for inpatient hospital services, section 4101. The Republican plan does not apply 2 percent reductions to all hospitals like the Clinton health care plan did. Rather, it receives the 1 percent reduction.

The copayment for health care services is a policy that we have heard a great deal about—somehow it was not as devastating last year when it was in Clinton health care plan. section 4134. But, happily, there are a number of provisions that are most helpful. One is the limited services hospitals. Frankly, there are going to be a continuing number of these in rural areas. With hospitals that are built relatively close together, you simply cannot support the hospital as a coservice hospital because there is not enough utilization. And we have had some experience with this. Under this bill, they can be reorganized and downsized into emergency rooms, or stabilizing facilities, and be reimbursed by HCFA—that is a very important change—so that you will not lose the facility in the town that cannot afford to have a full-blown hospital.

Medicare-dependent hospitals. The Clinton 1993 budget let this program expire, but the Republican plan reinstates it. The purpose is to assist high Medicare patient loads in Iowa, Wisconsin, Kansas, and other Midwest States. But it also has the extension of the sole community hospital. The Re- publican plan plans to put these special payments to hospitals that have 50 beds or less and are 35 miles or more away from the nearest hospital. Wyoming, Montana, Idaho, and other Rocky Mountain States receive the most money.

Medicare HMO payments. It intends to put these on an equal footing and to put some parity in these payments. These HMO payments in Medicare were based on the fee-for-service history. In one instance, in Bronx County in New York, the payment was $678 a month as opposed to South Dakota where it was $177. We need to find some equity in that. This program does that.

Medicare bonus payments, payments to primary care physicians to help hold primary care providers in rural areas, a 10- to 20-percent increase there if they practice in health care professional shortage areas.

These are the things that are in this bill to help rural health areas. Specifically, we have been working on it for several years with our rural health practice, both in the House and in the Senate.

Telemedicine grants. We are going to find that we can save a great deal of money and provide better services by using telemedicine. There are some grants here that allow for that to be developed as well as to develop systems within rural States to deliver services. So, Mr. President, contrary to what we have been hearing for the last few minutes, there are some substantial rural health additions to assist in delivering rural health services.

I urge the defeat of this amendment. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield now to our distinguished leader in agriculture, a strong spokesman in our country for agriculture. I yield 2½ minutes and to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.
Mr. HARKIN. I thank the chairman for yielding me an additional amount of time because I did want to make another point—that this 2,000-page bill really destroys our basic commodity programs that we have had to put a safety net under our farm families. It puts a hard cap on deficiency payment rates, doubles the percentage of unpaid base acreage, and devalues USDA's ability to respond to price-depressing surpluses.

What if commodity prices and farm income fall as they did in the 1980s? Under the bill, if corn prices fall to $2 a bushel an Iowa farmer with a 350-acre corn base—which is a modest size—would lose over $10,000 of income protection compared to the current farm bill. And, if corn prices fell to $1.80 a bushel, which is not out of the question, that farmer would lose over $17,000 in income protection compared to what we have now in the law.

Also, this is a disaster bill for hungry kids. The nutrition cuts in this bill are to what we have now in the law. The nutrition cuts in this bill are so large that the farmers who are responsible for supplying school breakfasts, summer meals, and the school milk program.

Mr. President, these drastic cuts to rural America are driven by ideology and not by common sense. They are unfair, unreasonable, and unc onclosable.

Enough is enough. Rural America is already paying its fair share for deficit reduction. So this amendment offered by the Senator from Montana is to send this disaster bill back to the Finance Committee with instructions to pare back the upper income tax windfalls, and to reduce the assault on rural America.

It is time, Mr. President, to put common sense ahead of ideology and to put the best interests of rural communities over the interests of a privileged few.

Mr. DOLE. This will leave the following issues that need to be disposed of by rolcall votes that have been debated yesterday and up to this point today: The Rockefeller motion concerning Medicare fraud, and the Bradley motion concerning EITC; the Graham, of Florida, motion concerning Medicaid; Kennedy amendment concerning education; Bumpers motion concerning deficit reduction; Baucus motion concerning rural restoration.

Therefore, I ask unanimous consent that all votes in this sequence after the first vote be limited to 10 minutes in length, with 2 minutes for explanation between each vote to be equally divided in the usual form.

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

Mr. DOLE. I further ask that Senator KASSEBAUM or her designee now be recognized to offer a first-degree amendment concerning education and the time be limited to 10 minutes equally divided in the usual form, with no amendments in order to the amendment, and the vote occur immediately following the vote on or in relation to the Kennedy amendment in the voting sequence.

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

Mr. DOLE. I further ask unanimous consent that the next 10 Republican amendments and the next 10 Democratic amendments be limited to 10 minutes equally divided in the usual form, with no amendments in order to any of the next 20 amendments offered.

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

Mr. DOLE. Let me explain to our colleagues that we will go after the voting sequence that will allow after 10 minutes of debate by Senator KASSEBAUM or her designee. Republicans will be entitled to offer the next three amendments in a row as a result of a previous agreement. Then each side will alternate until the remaining amendments, limited to 10 minutes each, have been debated.

The Senate will then begin voting on those debated amendments, and then begin voting on all amendments Members are going to offer which would have no debate. We would just offer it. There will be a little explanation. It will be the majority leader's intention to keep the Senate in until approximately midnight tonight and resume the voting sequence until concluded on Friday. We could vary a little bit either way this evening depending on how much progress we make. And I have discussed this with the Democratic leader. It is our hope that we could finish voting and have final passage by midnight tomorrow. That will depend, of course, on whether Members on the other side feel compelled to continue to offer amendment after amendment after amendment when all time has expired. But that will be determined later. And I thank the Democratic leader for his cooperation.

I will be happy to yield to the Senator from South Dakota.

Mr. BAUCUS. I thank the majority leader for that explanation. And that is in keeping with our agreement. We have three tiers of amendments. We have just completed our work on the first tier, for which now there will be votes, without second-degree amendments.

Once those votes have been completed, we will go to the second tier, for which there will be debate of up to 10 minutes on either side. I should say 10 minutes total for 10 amendments on the Democratic side and 10 amendments on the Republican side.

That will then expire all of the time. We will then go to the third tier of amendments for which there will be no time, and we will encourage Senators to write the amendments clearly enough to allow the clerk to read the purpose and give us the opportunity then to vote.

We would also expect that on occasion the managers might find the need to explain a particular amendment. But there would be no time for discussion of that third tier set of amendments.

I think this is a very good agreement. It is what we had hoped to achieve now for some time. I appreciate the cooperation of all of our colleagues on both sides of the aisle. I think this will allow us to accommodate our work and accommodate many of the priorities we have been talking about now for several hours.

Mr. DOLE. Mr. President, I just say to my colleagues this would not be a good day to be absent. Neither will tomorrow be a good day to be absent. I assume there will be anywhere from 40 to 60 votes between now and tomorrow afternoon.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. BAUCUS. May I inquire of the majority leader when the vote on the Bumpers amendment will occur. I assume there will be anywhere from 40 to 60 votes between now and tomorrow afternoon.

Mr. DOLE. They will occur after the Kassebaum amendment or her designee, then BUMPERS, then BAUCUS, then Senator from South Dakota. After the Baucus amendment votes, we will turn to the third tier of amendments and then third-tier amendments. And then second-tier amendments, which we hope will find a way to the wastebasket.
Mr. DASCHLE. Mr. President, just one clarification. I ask the majority leader. I would expect that we will vote on the second tier. I wonder if it would not be appropriate to have a minute. 30 seconds on a side, just to remind everybody what that series of second-tier votes are prior to the time we vote. We may have done that. I do not have the agreement in front of me. We are going to do that on the first tier with 2 minutes on a side. We vote on the second tier and have 30 seconds on a side just to be sure people understand.

Mr. AKAKA. Mr. President, I rise to express my deep concern about the provisions in the reconciliation bill relating to Medicare and Medicaid. In my judgment, the proposals are a danger to the health of millions of Americans. House and Senate Republicans have called for a reduction of roughly $450 billion in health care expenditures over the next 7 years.

They argue that they are merely reducing program growth, not cutting Medicare. But the facts tell us a different story. We have very good estimates of what it will cost to fund the Medicare program over the next 7 years. The fact is that more people will become eligible and we will continue to have health care inflation.

The Republican proposal would cut Medicare below both the medical inflation rate and the private sector rate by 7% per year for the next 7 years, a total of $270 billion that is not the case, we can just save a little bit of time. We are up against time constraints. I wonder if that is still the case.

Mr. DASCHLE. I would like to consult with our ranking member. It is my understanding we would be able to accept it, but let me confirm that after consultation.

Mr. Domenici. We have agreed to this, haven't we?

Mr. DASCHLE. The PRESIDING OFFICER. Yes. Mr. Domenici. Could I ask a question?

Mr. DASCHLE. I would like to consult with our ranking member. It is my understanding we would be able to accept it, but let me confirm that after consultation.

Mr. DOMENICI. In any event, we are not going to do that and if the Senator could find that out, we would save a little bit of time.

Mr. President, I am informed that the other side ought not work too hard on this. I am informed that the Republicans may not want you to say yes to our request.

Mr. DASCHLE. Mr. President, I ask that the quorum call not be taken from either side as it relates to the time available on the bill, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The quorum call at this time will not be charged.

Mr. DOMENICI. It would not be because a vote is pending in any event. We are just following the rules.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

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

Mr. DASCHLE. I yield 3 minutes to the distinguished Senator from Hawaii off the bill.

The PRESIDING OFFICER. The Senator from Hawaii has been yielded 3 minutes.

Mr. FUKAKA. Mr. President, I rise to express my deep concern about the provisions in the reconciliation bill relating to Medicare and Medicaid. In my judgment, the proposals are a danger to the health of millions of Americans. House and Senate Republicans have called for a reduction of roughly $450 billion in health care expenditures over the next 7 years. They argue that they are merely reducing program growth, not cutting Medicare. But the facts tell us a different story. We have very good estimates of what it will cost to fund the Medicare program over the next 7 years. The fact is that more people will become eligible and we will continue to have health care inflation.

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make seniors pay higher premiums and increase deductibles. Vermont will lose $53 million in Medicare payments over the next 7 years, losing $88 million in 2002 alone.

In Vermont, 73 percent of our elderly population have incomes of less than $15,000. And 1 dollar of every 5 dollars of their income is spent on health care. Yet Republicans are cutting Medicare and Medicaid to finance tax cuts that will mostly benefit Americans making over $100,000 a year—less than 3 percent of Vermonters make that kind of money.

Republicans have the gall to tell us that these massive cuts are supposed to ‘preserve, protect and strengthen Medicare.’ I think William Wells of Rutland, Vermont, who recently wrote to me, had the right response to this claim.

With true Vermont common sense, Mr. Wells wrote: I have heard politicians to say that they want to save Medicare. Their way of saving Medicare is like a hunter ‘saving’ a moose by shooting it and having it mounted by a taxidermist. It is still there but no longer functional.

Let us be honest with the American people. Congress can balance the Medicare budget and keep the system solvent—but the cuts must be gradual and spread over a longer period of time.

For 30 years, Medicare and Medicaid have contributed greatly to the decline in poverty and improved the health of seniors in America. We are now asked to turn our backs on the elderly and distribute the ‘savings’ among our wealthiest citizens.

Mr. President, I will oppose any plan that attempts to dismantle the health care delivery system that has served our nation’s seniors so well.

This bill also makes short-sighted cuts in education. It cuts student loan programs by $10 billion over the next 7 years. Students will be hit with 70 percent of these cuts—increasing the costs to 20,000 Vermonters receiving higher education and their families by at least $5,800 over the life of a student loan. Because of rising tuition costs, Congress should be working to make education more affordable—not less.

These additional financial burdens will discourage many students to continue their education after high school. The Contract With America has sealed the fate of the next generation of Americans. They may never have the chance of post-high-school training or a college education—the key to a better paying job.

This bill also makes deep cuts in our dairy program. The Senate plan scraps the price support system for butter and nonfat milk and sharply limits the price supports for cheese. Under the bill, the average Vermont dairy farm will lose $57,000 a year in revenue. These dairy cuts will deal another blow to Vermont’s dwindling family farms.

At a time when many working Vermonters are struggling to make ends meet, the Senate Republican budget would hike Federal taxes on low- and moderate-income families by cutting $43 billion in income tax credits—a program that rewards work and compensates for low-wages. This Federal tax increase will also raise State taxes in seven states, including Vermont, that have a State earned income tax credit tied to the Federal credit. As a result, 27,000 Vermont working families earning less than $30,000 a year—about 63 percent of Vermont taxpayers—will be forced to pay higher taxes, paying a double whammy on working families.

Mr. President, this budget bill is a raw deal for Vermont. It will leave my home State in an economy crisis for years to come. And I will urge the President to veto it.

Mr. HATFIELD. Mr. President, the Balanced Budget Reconciliation Act of 1995 is proof that this Congress is willing to make the difficult decisions that are necessary for the Federal budget. That there is agreement between Congress and the executive branch, between Republicans and Democrats, and between the House of Representatives and the Senate on the need to balance the budget at a date certain is a victory in and of itself. While we may not all agree on how to accomplish that feat, we are at least all proceeding toward a common goal.

This legislation authorizes the effort that is already underway in the Appropriations Committee to balance the budget. To date the Appropriations Committee has reduced Federal spending by $234 billion. My colleagues who have worked to put this legislation together know full well that reducing spending is not an easy task. However, given the size of the national debt, all members of Congress must act now and make those tough choices.

The prime example that we are ready to make tough choices is proven in this bill’s attempt to reign in the exponential growth of entitlement spending. Earlier this year I spoke on this floor that I was sobered by the demise of the Bipartisan Commission on Entitlements and Tax Reform. The Commission was unable to agree on a specific set of recommendations on how to address the issue of continued entitlement growth. I am very happy that the taboo of reforming entitlements may finally be gone. Entitlement spending will continue to grow from 49 percent of the Federal budget in 1995 to 59 percent of the total budget in 2002. Based on these numbers it is clear the entitlement beast has not been slain, but at least the Balanced Budget Reconciliation Act of 1995 takes us in the right direction on the entitlement issue.

Like many Members in this chamber, I have long worked in concert with the spending decisions in this legislation ad drafted. One of those areas of disagreement relates to the $11 billion reduction in education spending over 7 years. Some members have argued that this cut is small in comparison to total spending in this area, or that the impact is painless on a per person basis. What these arguments fail to consider is the critical role education plays in the success of the Nation’s children, the success of this Nation’s industries, and the success of this Nation’s standing in the world community. Education is an investment in America’s future. The Senate would be shortsighted to cut this investment short. I plan to work with my colleagues to ensure that this provision can be fixed before the Senate finishes its work on this legislation.

I am also concerned that this legislation deals a blow to States that have been innovative in addressing the rise in health care costs. The State of Oregon began an experiment in 1994 to expand health care coverage to more Oregonians. The Oregon experiment, as it is known, has increased access to basic health care to more than 120,000 low-income Oregonians. This has been accomplished by making rational choices about the effectiveness of health care services and making the delivery system more efficient. Already Oregon has seen significant results. Our costs per beneficiary are 10 percent less than the national average; hospital charity care has decreased by 30 percent; emergency room visits are down by over 5 percent; and our welfare caseloads have decreased by 8 percent in the past year. Unfortunately the legislation before the Senate would inadvertently penalize Oregon for being innovative in its delivery of medical services. I am working with the leadership to ensure that this type of creativity and effective governing is not penalized.

There are a number of tough choices in this legislation and the authors should be commended for their work. However, given the fact that 15 percent of the current budget is spent to pay interest on the debt, these tough choices need to be made. We have before us a proposal that will do the job. While I would like to see some reordering of priorities in the legislation, I am looking forward to working with my colleagues to assure that a balanced budget becomes a reality.

PENSION REVERSIONS

Mr. BINGAMAN. Mr. President, I rise today in opposition to a provision in the budget reconciliation legislation before us that could put at risk the pensions of hard-working Americans. Specifically, I refer to the provision allowing corporations to take money out of funds deemed overfunded by the IRS for deductibility purposes, and use that money for other employee benefits, without paying an excise tax. Of course, because money transferred in this manner is fungible, the money could actually be used for almost any purpose.

The principal problem with this provision is that pensions funds considered
overfunded by IRS for tax policy consideration are not overfunded on an actuarial termination basis. As I understand it, this means that while the plans have enough money to meet their current ongoing obligations, if for some reason the plan terminated, the people who had paid into that plan would be guaranteed that they could provide the pension benefits that they earned over the years. In such a case, the U.S. taxpayer, through the Pension Benefit Guarantee Corporation [PBGC], would be forced to step in and pay the benefits.

Mr. President, we know that workers are concerned about their ability to retire with a decent standard of living. We also know that our Nation is suffering from a lack of savings and capital for economic expansion, and that institutional investors like pension funds are the single largest investors in capital. It therefore makes absolutely no sense to me to provide an incentive to decrease pension security, saving available capital through provisions like the one included in the budget reconciliation legislation before us.

I think we should be doing more to promote sound pension plans, and expand coverage for American workers. This provision seems to me to be doing just the opposite: putting existing plans at greater risk without expanding coverage. In the time since this and a similar House provision have come to the public’s attention, numerous pension experts, including the American Academy of Actuaries and the PBGC, have expressed concern about the effect this provision could have on pension fund soundness. I have also heard from constituents expressing similar concerns. For all of these reasons, I urge my colleagues to strike this provision.

Mr. BOND. Mr. President, in many respects debating the debt ceiling are having today, a debate I was not sure I would ever see—should we, or must we, do nothing to stop our Nation’s generations.

We have heard many speeches about the need to reduce the deficit, and get our Nation’s books into balance. Everyone who looks at our nearly $5 trillion debt recognizes the need to do something so that we don’t keep piling on that debt for our children and grandchildren.

Over the next few days the American people will have a rare opportunity to see exactly what the political leadership’s visions for our country’s future are.

Too often Congress legislates for the present, ignoring the costs for the future. Political expediency replaces thoughtful debate, and at the end of the day it is with shock and dismay that the public finally realizes what has occurred—and recognizes what additional debt they or their children will be forced to pay.

It takes a long time to build up a $5 trillion debt. And even starting today, it will take 7 years to get us to a balance, meaning that we won’t even begin paying off a dime of debt until 2002.

Some would like us to put off the tough choices for a little longer. Others have abandoned finding a solution to the real budget crisis we are facing in our own political interests. And still others claim to be on board with the concept of balancing the budget—they just don’t like our approach.

But as I have said before—talk is cheap. If you say you want to balance the budget, let’s see your plan.

If you say you understand Medicare is going broke, and must be fixed. Let’s see your plan.

Unfortunately, what we have seen and heard so far is much heat—and no light.

Medicare is one of the best examples. Medicare today says no to at least $1 trillion to the debt every 5 years.

Unfortunately, that is where President Clinton remains today. While we are willing to put before the public the real questions—when do we stop adding to the debt? When do we get serious about slowing the growth of runaway programs? When will Congress be willing to take on a special interest, or a pet program and say ‘Sorry, I'm worried about adding to my kid’s debt.’

No one said it would be easy—but with the leadership of Senator Domenici, and the willingness of Members to stand up and vote for action instead of just talking a good game—this Senate will soon take that step.

Make no mistake, the step is a big one. As for the first time in 25 years Congress has the opportunity to pass a budget which will get us to a surplus—rather than just keep adding to our debt.

The budget before us is tough. It sets priorities. It recognizes that government cannot do it all. And it makes the statement that the time has come for leaders of both parties to start paying attention to the financial and economic devastation they are creating for tomorrow’s generations.

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Medicare is one of the best examples. Medicare today says no to at least $1 trillion to the debt every 5 years.
In 1986 alone, of the 7.6 million returns reporting capital gains, 3.1 million of these taxpayers reported no capital gains taxes. This is called the "ocassional recognition phenomenon." Since many taxpayers do not have capital gains each year, it is obvious that there are millions more of lower- and middle-income taxpayers than this chart indicates who will benefit from a lower capital gains tax rate.

This occasional recognition phenomenon also illustrates why the numbers cited for the rich are consistently overstated by capital gains tax cut opponents. By only looking at 1-year segments, capital gains tax cut opponents erroneously conclude that once a taxpayer experiences an unusually large capital gain in any given year, in that 1 year of sale they will be lumped in with the rich because they reported a $250,000 gain on the sale of their farm. To conclude that this couple is rich because they realized a large capital gain in only 1 year of their life is ridiculous. Yet, this is exactly the basis for many of the statistics given by my friends on the other side of this issue.

One study looked at those reporting over $200,000 of income per year from 1981 to 1984. Taking just single-year snapshots of the realizations, such taxpayers accounted for almost 40 percent of all capital gains tax revenue. However, when the entire 4-year period was considered as a whole and the occasional nature of recognition was taken into account, their proportional share dropped to just 22 percent. Thus, the more years that are included in the comparison, the smaller the share of gains going to the so-called rich.

Let me repeat, Mr. President, studies that show lower- and middle-income taxpayers who receive an occasional larger capital gain as being rich are misleading.

OPPONENTS IGNORE BENEFIT TO LOWER- AND MIDDLE-CLASS TAXPAYERS

Now, I am the first to admit that some who are truly wealthy will benefit from a lower capital gains tax rate, and rightly so, as I will discuss in a few moments.

However, the impact of the benefits of a capital gains tax cut to the wealthy are greatly overstated, while the positive benefits to lower- and middle-income taxpayers are mostly ignored by those who oppose this change.

For example, a Treasury Department study estimates that nearly half of the dollar value of all capital gains are reported by taxpayers reporting wage and salary income of $50,000 or less. Moreover, the same study estimates that three-fourths of all tax returns with capital gains are filed by taxpayers with wage and salary income of less than $50,000. Yet, to listen to capital gains tax opponents, one could conclude that only the rich would be affected by a lower rate. The benefit of the capital gains deduction in this bill, contrary to the following.

It is estimated that about 12 million lower- and middle-income workers participate in some sort of stock equity plans with their employers—12 million. Moreover, many millions of Americans own investments in stocks, bonds, and mutual funds. In fact, as of September 1994, there were 93.6 million mutual fund accounts in America. It is interesting to note that 22 percent of all mutual funds report incomes of $30,000 or below and that 80 percent of those families report incomes of $75,000 or below.

This is middle America. This is the teacher who married the police officer planning for their future.

In addition, millions of people in the lower- and middle-income categories own homes and rental properties that could be subject to capital gains taxes upon sale. This bill will benefit all of these taxpayers.

CAPITAL GAINS TAX RATE DIFFERENTIALS

Mr. President, it is well known that in 1986, Congress raised the capital gains tax rates on the rich, from a 20-percent top rate to a 28-percent top rate. What is lesser known, however, is that we raised capital gains taxes on middle-income taxpayers as well. For example, a family of four earning the median income saw a 50-percent increase in their capital gains tax rate. A family of four earning twice the median income—and these would be the upper middle class rather than the rich—saw a 47 percent increase in their capital gains tax rate.

In 1996, Congress once again created a differential between the top tax rate on capital gains income and the top rate for ordinary income. By putting in a new 31-percent bracket, but keeping the top rate on capital gains income at 28 percent, we once again began to favor capital gains income—for some.

The differential was further increased in 1993 when Congress created the 36 and 39.6-percent tax brackets and again capped the capital gains tax rate at 28 percent. The result is that taxpayers in the highest brackets currently enjoy a lower rate on capital gains, but those in the 15 percent and 28 percent brackets do not.

As you can see from chart 2, Mr. President, this is illustrated by giving those in the lowest tax brackets the largest percentage reductions in their effective capital gains tax rates.
I will also say, while I believe that we should have direct lending stay in as it creates great competition for the programs, and I am in favor of having a rate higher than 20 percent that is in the bill now, I could not go with the Democratic amendment because it essentially opens up direct lending fully. I will and discuss the real issue—restores the的兴趣 policy.

We give up the chance to show that politics takes a back seat to sound policy.

I wish we could have put differences aside and discussed the real issue—restoring the labor committee's instruction and restore funding for education certainly, we must balance the budget but we must cut expenditure not investment. That is what this amendment does. Tied to 85 percent institution fee, restores the 6-month grace period, and eliminates the increase in the PLUS interest rate. Support for this amendment will provide savings to parents, students, and institutions.

Eliminating the interest subsidy during the 6-month grace period could increase the debt of an undergraduate who borrows the maximum $23,000 by almost $600, resulting in additional payments of nearly $1,500 over the life of the loan. For a graduate student who borrows the maximum $65,500, the result would be $2,700 in additional debt and almost $4,000 in additional payments.

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

It simply doesn't pay to cut education.

Consider the following: More highly educated workers not only earn more, but they work and pay taxes longer. This is what is in view. The amendment offered by my democratic colleagues restores direct lending in full force without really looking at the advisability of such a move. It is like saying, "ready, fire, and then aim."

For this reason I support a firm cap on PLUS loans that now have direct lending that half of the money is out. Half of them are out. There is no suggestion about how you are going to cut those out.

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

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

The bad news is that the amendment of the Republicans will affect the 1,400 schools that now have direct lending that half of them have direct lending. They will be at the mercy of the banks and the guaranty agencies. There is not a college or university in this country and their parents that our Republican friends are hearing their message about the unfair, unwise, unjustified additional burden on working families. So that is the good news.

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

Mr. SIMON. Mr. President, I agree this is a step forward. But it eliminates—cuts down to 20 percent direct loans. This is, frankly, a brazen kind of pandering to the banks and the guaranty agencies. There is no college or university in this Nation that has a direct lending program that does not want to keep it. And as our friend and former colleague, DAVE DURENBERGER, said, "This is not free enterprise, the
old system, this is free lunch for the guaranty agencies and the banks.” We write them the law their profit.

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

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

If we want to call this a bank assistance, we will record the break-even profits right now—we ought to do that. If we want to call this an assistance to guaranty agencies, we ought to do that; but if we want to call it an assistance to students bill, then we ought to vote for the Kennedy amendment. Let me just point out that this idea came from Congressman Tom Petri, a Republican from Wisconsin. Dave Durenberger, Republican from Minnesota, was the chief cosponsor of this.

This should not be a partisan thing. I hope Members on both sides will vote for the Kennedy-Simon amendment. It makes sense for everyone. I just appeal to you on behalf of America’s students. Mr. Kennedy, do I have 30 seconds?

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

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

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

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

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

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

October 26, 1995

CONGRESSIONAL RECORD—S

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

Sincerely,

June E. O’Neill
Director.

RESPONSES TO QUESTIONS FROM CHAIRMAN DOMENICI

The Credit Reform Act of 1990 provided that the fiscal budget would record the cost of direct loans and guarantees on a subsidy basis rather than a cash basis. The act defined the subsidy cost of a loan to be the present value of all loan disbursements, repayments, default costs, interest subsidies, and other payments associated with the loan, excluding federal administrative costs of loan programs continued to be accorded a cash-accounting treatment. Estimates of proposals affecting student loans made from 1992 to 1994 used an alternative definition of subsidy costs. In addition, changes in economic and technical estimating assumptions complicated the comparison of estimates made at different times. The following questions and answers explore the implications of the change in accounting for direct student loans.

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

Answer: The President’s fiscal 1994 budget proposed expanding the direct student loan program from a pilot program (which was about 4 percent of loan volume) to a program that would provide 100 percent of all student loans by the 1997-1998 academic year. As part of the request, the President proposed to give the CBO alternative definition of subsidies. In June of 1994, substantially increase the annual capped entitlement levels for direct loan administration for subsidiary schools for loan origination. The budget proposed no changes in the guaranteed loan program except to phase it out. CBO estimated that the proposal would save $4.3 billion over the 1994-1998 period. These estimates were completed using the CBO February 1993 baseline economic and technical assumptions. The freeze proposed in fiscal 1995 policy assumed in that year’s budget resolution.

The legislation passed by the Congress differed significantly from the assumptions used in the budget resolution. The bill met the requirement to save $4.3 billion by limiting the volume in the direct lending program to 60 percent total and substantially cutting subsidies in the guaranteed loan program. Specifically, direct loans were to replace 100 percent of federal and substantially cut subsidies in the guaranteed loan program. Governmentally, direct loans were to replace 100 percent of federal and substantially cut subsidies in the guaranteed loan program. Specifically, direct loans were to replace 100 percent of Federal loan volume by July 1997. This reduction in loan volume would count the administrative cost of direct student loans.

Question 2: In his FY’96 budget, the President proposed an acceleration of that plan so that all student loans would be 100 percent guaranteed by July 1997, and 100 percent of loan volume by July 1997. This reduced change was estimated to save about $1 billion from the CBO baseline over the 1996–2002 period. That baseline incorporated CBO’s February 1995 economic and technical assumptions and the results of the loan phase-out schedule provided under current law. This baseline reflected the rules that are currently in place for estimating the cost of credit programs.

The 1995 budget resolution specified that the direct administrative costs of direct student loans should be included in the subsidy estimates for that program for purposes of Congressional scorekeeping. This change conformed the treatment of the administrative costs of direct student loans for guaranteed student loans. For purposes of Congressional budget scorekeeping, the change overrides the Credit Reform Act, which requires that the direct administrative costs for direct loan programs be accorded a cash-accounting treatment.

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

Question 3: What would be the long term costs for scoring rules in effect prior to the 1996 budget resolution? How would those savings be affected over the life of the loan? How would those costs be compared with those costs for direct loans made under the guaranteed program?

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

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

Answer: This year’s budget resolution adopted the administration by the Subcommittee on Appropriations of the costs of direct student loans.

By defining the direct administrative costs of direct loans and requiring these costs be calculated over the life of the loan portfolio, the resolution allowed for the costs of direct and guaranteed loans to be evaluated on a similar basis. Thus, all of the program costs for both programs are calculated on a similar basis and are accounted for in the same way, whether they are calculated on
the basis of subsidy or cash-based accounting.

Question 5: Are there any expenses of direct or guaranteed loans that are currently excluded from the government subsidy costs that would be properly included in that subsidy? If so, what are they and why have they been excluded from the subsidy cost? For example, some have argued that the credit reform amendment did not include the administrative cost allowance which is paid to guarantee agencies. Any administrative costs—those not directly tied to loan servicing and collection—are included in the budget on a cash basis for both programs. Some have asked whether costs would be more appropriately included in the loan subsidy calculations. Although it might be appropriate to include some or all of these costs in the subsidy calculation as a practical matter, it is not straightforward to determine which costs to account for in this manner. For the most part, costs of govement oversight, regulation, and other similar expenditures are personnel costs of the Department of Education or contractors for services. In addition, the costs, such as program oversight, are not tied to a single loan portfolio but affect many portfolios and both programs. Allocating indirect administrative expenses for programs for specific fiscal years would be difficult.

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

As part of its current services budget estimates, the Department of Education announced plans to use funds available under the capped entitlement to pay administrative costs of the guaranteed loan programs at one percent of new loan volume for the next five years. Both the CBO baseline and the budget resolution baseline include these planned administrative costs. The administrative costs under the capped entitlement account at the Department's current services levels.

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

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

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

Question 7: Does the credit reform rule adopted by the Senate Appropriations Committee on the budget resolution provide the proper framework to fairly assess all direct federal expenses of guaranteed and direct loans?

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

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

Answer: On July 26, 1995, CBO prepared an estimate of the original Goodling proposal. The proposal had three components: (1) authorize the Secretary to reduce direct student and parent loan effective dates in academic years 1995-1996; (2) change the annual and cumulative budget authority levels under Section 487 of the Education Act to reflect anticipated changes in administrative cost anticipated for new direct and guaranteed loans and the termination of payments of Section 487 funds to guarantee agencies and limit the funds to $24 million annually; and (3) reestablish an administrative cost allowance (ACA) for guaranteed loans at 0.85 percent of new loan volume or 0.08 percent of outstanding volume. With an annual limitation on ACA subsidies of $200 million. Assuming an enactment date of October 1995, the proposal would reduce outlays for student loans by $227 million for fiscal year 1995 and by $1.5 billion over the 1996-2002 period.

Relative to the budget resolution baseline, shifting loan volume to guaranteed loans would save $555 million over the 1996-2002 period. Administrative expenditures would be reduced by $1.97 billion over the next seven years by lowering the cap. Of this amount, $824 million reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the guaranteed loan program. The CBO baseline for guaranteed loans was $1.3 billion over the 1996-2002 period. Administrative expenditures would be reduced by $1.5 billion over the next seven years by lowering the cap. Of this amount, $824 million reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the guaranteed loan program.

Mr. SIMON. Under the scorekeeping rule, would you score it under current law? There is a sufficient second. The question is on the motion. The ayes and nays have been ordered. The clerk will call the roll.

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

Do the motion to lay on the table the motion to commit was rejected. Mr. DOMENICI. There is a statement in the letter from CBO on that issue.

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

Mr. DOMENICI, there is a sufficient氛for reconsideration of the vote by which the motion was rejected. Mr. NICKLES. I move to lay that motion on the table.
The motion to lay on the table was agreed to.

AMENDMENT NO. 2950

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

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

The PRESIDING OFFICER. The Chamber will be in order.

The Senator from Michigan.

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

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

The PRESIDING OFFICER. The Chamber will be in order.

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

The PRESIDING OFFICER. The Senator from Iowa.

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

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

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

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

I urge its adoption.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Iowa.

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The bill clerk called the roll.

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

[Rollcall Vote No. 500 Leg.]

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The PRESIDING OFFICER. The time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

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

[Roll Call Vote No. 501 Leg.]

YEAS—53

Abraham,  Stephen B.  Arizona
Ashcroft,  John  Missouri
Baldwin,  Jeff  Hawaii
Blumenthal,  Richard  Connecticut
Boren,  David  Oklahoma
Breaux,  Robert  Louisiana
Brown,  Tom  Ohio
Byrd,  Robert  West Virginia
Caspari,  Fred  Delaware
Cochran,  Thad  Mississippi
Collins,  Susan  Alaska
Conrad,  J.  .....

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

[Roll Call Vote No. 501 Leg.]

YEAS—53

Abraham,  Stephen B.  Arizona
Ashcroft,  John  Missouri
Baldwin,  Jeff  Hawaii
Blumenthal,  Richard  Connecticut
Boren,  David  Oklahoma
Breaux,  Robert  Louisiana
Brown,  Tom  Ohio
Byrd,  Robert  West Virginia
Caspari,  Fred  Delaware
Cochran,  Thad  Mississippi
Collins,  Susan  Alaska
Conrad,  J.  .....

The PRESIDING OFFICER. The time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The assistant legislative clerk called the roll.

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

The Senator from New Mexico.

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 51, nays 48, as follows:
The amendment (No. 2959) was agreed to.

Mr. EXON. I move to reconsider the vote.

The PRESIDING OFFICER. The Senate will be in order. It also slows down the Chamber, we can do this in 10 minutes.

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

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Cannon
Cochran
Coverdell
Craig
D'Amato
DeWine
DeLea
Domenici
Faircloth

YEAS—51

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

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

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

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

I say to my colleagues, we are going to start ringing the bell here in 10 minutes.

Mr. DOLE. I thank the Chair. I thank Senator KASSEBAUM for yielding.

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

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

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

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

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

But the image of a better America, a stronger America, and a more fiscally secure America is incomplete for the next generation unless we have one critical component: that is, a commitment to education funding and to students.
I believe one of our duties in this process is to keep the American Dream alive for our generation as well as the next generation of students—because we all know that educating today’s students is also about preparing tomorrow’s workforce.

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

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

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

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

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

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

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

I believe we must support this amendment because student loans level the education playing field for so many in this country.

In the world of education, student loans are the great ‘enabler.’ They afford everyone the equal opportunity to profit from a college education.

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

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

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

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

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

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

Now, I know that many of my colleagues will of the $9.4 billion would have wanted more, especially when it comes to direct lending. Obviously, there is a difference of opinion on direct lending.

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

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

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

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

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

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

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

For example, a College Board survey says that 1985-1986 is the third straight year that tuition costs have risen by 6 percent. Since this rise outpaces income growth in America, there’s heavy borrowing for a college education—up over the average of 17 percent yearly since 1990.

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

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

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

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

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

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

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

According to the U.S. Department of Commerce, a person with a bachelor’s degree will still average 30 to 55 percent more in lifetime earnings than a person with a high school diploma.

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

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

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

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

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

If we deny individuals the opportunity to receive an education because
they lack the financial assistance or the access to financial assistance, clearly we—as a nation, a superpower, and the world’s greatest democracy—are going to suffer.

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

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

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

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

I think we all acknowledge that college costs have increased in this country. In fact, since 1988, they have increased more than 34 percent—16 percent for the growth of income for most families in America. That has resulted in increased borrowing of 219 percent for individuals and families all across this Nation so that their family and their children can pursue higher education.

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

I ask unanimous consent to include as cosponsors of this amendment Senators Roth, Domenici, Pressler, Stevens, and Specter.

The PRESIDING OFFICER. Without objection, so ordered.

Ms. Snowe. I yield the floor.

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

Mr. Frist. Mr. President, I rise in support of the Kassebaum amendment which strikes from the budget reconciliation bill the provisions relating to a 0.85 percent school fee, the elimination of the grace period interest subsidy and the PLUS loan interest rate increase.

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

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

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

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

Mr. Exon. Mr. President, I yield 1 minute to the distinguished Senator from Illinois, Senator Simon.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

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

The Senator from New Mexico, Mr. Domenici. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. President, there are no other Senators in the Chamber who desire to vote.

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

[Rollcall Vote No. 504 Leg.]

YEAS—99

Abraham
Aikaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Brady
Brown
Bryan
Burns
Byrd
Campbell
Chafee
Costs
Cox
Cothen
Conrad
Covდell
Craig
D’Alesandro
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Fiorina
Frist
Gannett
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hutchison
Heflin
Heims
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kasich
Kempthorne
Kennedy
Kennedy
Kerry
Kerry
Kohl
Kyl
Launzenberg
Leach
Levin
Levy
Lieberman
Lott
Mack
McCaин
McConnell
Mikulski
Meynihan
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Risch
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Smith
Snowe
Specter
Stevens
Thomas
Thurmond
Tierney
Wells
come

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

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

The PRESIDING OFFICER. The motion to lay on the table was agreed to.

BUMPERS MOTION TO COMMIT

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

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

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. Bumpers. Mr. President, I move to lay this motion on the table.

So the motion (No. 2992) was agreed to.
The PRESIDING OFFICER. There is a sufficient second.

The question is on agreeing to the motion to table the Bumpers motion to commit. The yeas and nays have been ordered.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico. Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arizona.

Mr. FORD. Mr. President, will the Presiding Gentleman call the roll?

The PRESIDING OFFICER. The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 46, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the motion fails.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. 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 Clerk will announce how much time is on these three amendments?

The PRESIDING OFFICER. Ten minutes equally divided.

The Senator from Arizona.

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

I thank the Chair. I am grateful to the Senator. I thank him.

AMENDMENT NO. 2964

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

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

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NICKLES, proposes an amendment numbered 2964.

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

SEC. 3. SENSE OF THE SENATE.—The Senate finds—

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

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

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

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

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

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

(g) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 1996.

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

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

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

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

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

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

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

In 1996, I brought this amendment to the floor, and in 1989 I brought it to the floor. And in 1990, 1991, 1992, 1993, and 1994. And each time on the other side of the aisle it was turned down.

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

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

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

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

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

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

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

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

Mr. EXON. Mr. President, in order to move things along, we have a great amount of work to do. I yield back the balance of my time.

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

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

EDITORIAL ENDORSEMENTS

Chicago Tribune: The skill and expertise of the elderly could be put to work by future workers. While bringing in more tax dollars and helping America stay competitive in the international marketplace.

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

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

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

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

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

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

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

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

The Cincinnati Enquirer: No American should be discouraged from working, as long as he wants to and is physically able to do so.
The Indianapolis Star: On the face of it, there was widespread agreement in favor of those who stop working at 65 and against those who keep working, in favor of well-to-do retirees and against middle- and low-income recipients, and favored a part-time job to help with expenses.

Forbes: Moreover, people are living longer: the 1980's saw artificial barriers block the full use of our most productive asset: people.

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

The cap on earnings—set at $9,720 for retirees age 65 to 70—is "age discrimination of the worst kind," Jacobs said, and that is "plainly wrong." For every $1 earned above the cap, seniors lose $1 in benefits. As he puts it, it is foolish to maintain a policy that keeps people with experience and a willingness to apply their skills out of the work force, especially when the country faces labor shortages and declining international competitiveness.

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

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

Repealing the Earnings Test would also benefit the elderly, who are living longer. They want to regain our competitive edge. Yet we still punish in a more fundamental way. It violates an American ethic. Surely it is poor social policy to maintain disincentives to productive labor. Better to let seniors who have something to contribute slip back into harness. Besides, many of them need the extra income.

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

There is no earnings ceiling for Social Security recipients age 70 or older. It is non-sensical to have one for those younger. Maintaining the arbitrary ceiling and taxing away wages every dollar earned from those who exceed it drives away productive and experienced employees. Federal and state tax brackets are not so flush they can pass up the revenues that could be had from taxes on the higher earnings of older workers.

Why chase people who want to work out of the labor force? Why make this pool of talent lie stagnant? The earnings ceiling is an echo of an earlier time when it was argued the labor force of productive and experienced workers into forced retirement. The nation's economy is not so robust that it can tolerate the loss of able and experienced employees. Federal and state tax brackets are not so flush they can pass up the revenues that could be had from taxes on the higher earnings of older workers.

When a company doesn't support its stated goals by adopting policies to achieve those goals, its aims become unattainable. Such is the case with a new Federal Reserve study which underscores the lack of competitiveness in the global market. We say we want to regain our competitive edge, yet we still punish in another way. It violates an American ethic. Surely it is poor social policy to maintain disincentives to productive labor. Better to let seniors who have something to contribute slip back into harness. Besides, many of them need the extra income.

The Social Security Earnings Test is age discrimination. A Depression-era relic that penalizes senior citizens who work after they retire. By forcing seniors to forfeit over $1 in Social Security benefits after they earn more than a ridiculously low amount, the Earnings Test tells the elderly they can no longer value their experience and experience.

Seniors between 65 and 70 who earn more than $9,360 are slapped with a 33 percent penalty. In short, the government siphons $1 in penalties for every $3 a productive senior earns over the limit. When coupled with federal taxes, seniors who earn a penalty $10,000 a year are faced with a 36 percent marginal income tax rate—twice the rate of millionaires.

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

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

The Social Security Earnings Test was instituted in the 1930s to discourage seniors from working and make room for younger Americans to enter the work force. Whether the earnings cap is good or evil is hardly relevant; as the U.S. population ages, seniors are becoming an increasingly important segment of the labor force. The government would be better off encouraging seniors to produce rather than penalize them for remaining active and productive.

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

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

If the Earnings Test is repealed, more seniors—up to 700,000, according to the National Center for Policy Analysis, an economic research group—would rejoin the work force, expanding the tax base and increasing the amount of tax revenue the government receives from these retirees, investors, and taxpayers. As a result, the NCPA reported, the annual output of goods would increase by at least $11.4 billion.
But a powerful minority of House leaders are fearful open discussion would lead to an even greater groundswell of public support and a demand that Congress move swiftly to approve the bill.

As our country takes steps to make itself more economically competitive for the 21st Century, it is clear that we will have to use every available resource, especially in the U.S. work force. Remaining competitive in the next century requires adopting policies that foster our young and vibrant population to remain productive and help bolster the economy. The realities of our economic situation demand that we do so.

AIR FORCE SERGEANTS ASSOCIATION
INTERNATIONAL HEADQUARTERS,
Temple Hills, MD, January 8, 1992.
Hon. JOHN MccAIN,
U.S. Senate, Washington, DC.

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

Sincerely,
JAMES D. STATON,
Executive Director.

THE SENIORS COALITION,
Hon. JOHN MccAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR McCAIN: I wanted to take just a moment to thank you for introducing the House Amendment to repeal the Social Security Earnings Test. We have written to the Senate and House conferences expressing this support and are ready to assist in any way possible.

Sincerely,
JAMES D. STATON,
Executive Director.

The Seniors Coalition has made this issue the cornerstone of our legislative agenda over the past three years. We have worked closely with Rep. Dennis Hastert in the House Republican Conference and the Senate Senate Conference and with other House and Senate leaders in developing the resolution. We have budgeted $250,000 for this effort, and our efforts will be coordinated with the Administration.

In conclusion, we believe that seniors should always be able to work in a minimum wage paying job (10 hours per week) without being penalized. To ensure that this is not a future problem, we recommend that the Social Security Earnings Limit be indexed at 25% above the annual full time income based on prevailing federally mandated minimum wage. Currently, that would increase the cap to $11,050. Internally, this would allow us to hire a senior, have them work 30 hours per week, and penetrate the rate range to the second step before reaching this cap level.

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

Sincerely,
DIANNA MORGAN,
National Council of Senior Citizens,

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

DEAR SENATOR McCAIN: We urge your support of an early and positive vote for S. 3008. The Older Americans Act (OA) reauthorization is critical to providing continued supportive services for millions of older Americans, most of whom are low-income and women. Without final passage, important new programs cannot be initiated and the White House Conference on Aging cannot take place. Amendments of particular importance to OWL are those requiring data collection on long-term care workers, and supportive services for family caregivers.

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

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

Sincerely,
LOU GLASSE,
President.

NATIONAL COUNCIL ON THE AGING, INC.,

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Sincerely,
LOU GLASSE,
President.

NATIONAL COUNCIL ON THE AGING, INC.,

DEAR SENATOR McCAIN: We urge your support for immediate Senate action to reauthorize the Older Americans Act S. 3008. Together, we are joining forces with many other national organizations to seek your help in passing a clean Older Americans Act.

For the past two decades, the OAA has provided many of our nation's most vulnerable older adults with needed services including home-delivered meals, transportation, information and referral, advocacy assistance, visiting and telephone reassurance, homemaker services, legal and employment services.
Failure to take action on the reauthorization means that none of the many significant improvements in OAA services crafted after long Congressional scrutiny will be initiated. Inaction has already had an effect on the current appropriation process in the House.

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

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

Sincerely,

DR. DANIEL THURZ
President
NATIONAL ASSOCIATION OF
AREA AGENCIES ON AGING

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

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

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

As you are probably aware, passage of the Older Americans Act has been stalled by provisions to amend the exemption of the Social Security earnings test. For the past nine months Congress has been unable to reach an agreement on the earnings test issue. We strongly believe it is time Congress moved beyond this impasse by decoupling the earnings test from the Older Americans Act—by passing S. 3008. Failure to act will do a disservice to our nation’s older persons and create a situation that can only be remedied by Congress.

I urge you to take the necessary steps to obtain immediate passage of this crucial legislation.

Sincerely,

CHERYLL SCHEMM
President
NATIONAL ASSOCIATION OF
RETIRED FEDERAL EMPLOYEES

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

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

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

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

Sincerely,

HAROLD PRICE
President
NATIONAL ASSOCIATION OF
STATE UNITS ON AGING

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

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

The Senate Amendment to pass S. 3008. Swift action can still avoid unnecessary and unwarranted reductions in Older Americans Act service funds and rescue literally years of congressional work to strengthen the Act from being lost when this Congress adjourns in a few short weeks.

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

Sincerely,

DAVID J. QUIRK
Executive Director
NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE

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

DEAR SENATOR MCCAIN: Last year, Congress authorized a Commission to study the Social Security Notch Inequity as a way to resolve a long-standing issue.

Today, I am proposing an amendment numbered 1358, that I am not alone in my strong feelings that the senior citizens of America must not be deprived of their right to choose their own doctors.

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

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

The pending amendment stipulates that if a Medicare choice plan offers a closed plan HMO within the Medicare benefit that is equal to a point-of-service plan enabling senior citizens to exercise their freedom of choice regarding the selection of physicians.

Three summers ago, I had a little encounter with some remarkable medical doctors, who are also my personal friends, in my hometown of Raleigh. I was at that time, of course, free to
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Mr. EXON. We are having a great deal of difficulty. Since you have changed the order of offering amendments, Senator Domenici was not alerted, and we are having trouble getting him here.

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

Mr. EXON. I would appreciate that.

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

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

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

The clerk will call the roll.

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

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection. It is so ordered.

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

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

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

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

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

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

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

I can only call on the Senator on his suggestion. The modified version of the amendment is at the desk. Mr. INHOFE. I thank the Senator from North Carolina.

I thank the Chair.

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

The PRESIDING OFFICER. The Senator has expired.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

Let me say the next amendment that we have now, which we do not have, is the amendment to be offered by Senator BROWN, as I understand it. We are receiving the amendments, or perhaps the exaggerations of the other side. We are having some difficulty with our amendments and get them to the floor. One of the reasons why I am asking the question mark —

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

Mr. DOMENICI. Of course.

Mr. FORD. We have a Brown amendment, and Senator BROWN is not even on the list of 17 given to us. And the first four that were given to us — Mr. DOMENICI. He is No. 17?

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

Mr. FORD. BROWN is a question mark?

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

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

Mr. DOMENICI. Yes.

Mr. FORD. Now, am I to understand that there will be only 16 of the 17 that the Senator will give us?

Mr. DOMENICI. Yes. There are only going to be 16 that we will have 5 minutes on a side. Any that are left over go into the third tier.

Mr. FORD. Third tier.

Mr. DOMENICI. The third tier with no time.

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

Mr. DOMENICI. Yes.

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

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

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

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

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

Mr. DOMENICI. Will the Senator from New Mexico respond?

Mr. BROWN. Will the Senator yield?

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

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

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

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

Mr. BROWN. I delivered a copy. Mr. FORD. We just now got it.

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

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

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

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

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

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

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

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

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

Mr. WARNER. Will the Senator withhold?

Instead of the quorum call, could others address generalities in the
measure rather than just have a quorum call put in? This Senator would require about 8 minutes.  
Mr. DOMENICI. Sure, sure.  
Mr. WARNER. I thank the Chair.  
Mr. DOMENICI. I ask unanimous consent that we have 15 minutes without an amendment, divided equally, for a Senator from Virginia.  
Mr. WARNER. Mr. President, I have been listening with great attention and interest to this very important debate on both sides of the aisle regarding the Balanced Budget Reconciliation Act of 1995.  
I am pleased to support the budget which follows through on our promise to balance the budget by the year 2002, protect Social Security, and save Medicare from threatened bankruptcy.  
I would like to focus on the details of this massive package. I would like to address the promise to the American people, present and future, that this bill represents. This is not just a budget for an instant, this is not a package of routine legislative changes. This is a historic commitment to America that deficit spending is about to come to an end and has been brought about during this first year of the Republican majority in the U.S. Congress.  
The net result of a balanced budget will be lower interest rates for years to come and as many as 6 million new jobs in the next 5 years. This bill will give the States more control over critical entitlement programs that have become inflated with the Federal bureaucracy mismanagement of many of these programs range from Aid to Families With Dependent Children to Medicaid. I strongly support these initiatives which will let the States decide how best to solve and serve the problems associated with their own citizens.  
What is best for Virginia is not necessarily the same as what is best for another State. And this Balanced Budget Reconciliation Act will move more power and money out of Washington back to State governments and local communities where it properly, in my judgment, belongs.  
I have received correspondence from many Virginians who support this bill because it will both balance the budget for the sake of future American families, particularly our children, Mr. President, and will pave the way for needed tax relief for the heavy tax burden on our present American families.  
When this budget reconciliation bill is signed into law, we will not be at the end of the trail, but only at the beginning. We will have identified the path and the course, but each year we will have to make spending decisions that will keep us on the road that is being defined by today and tomorrow.  
During my nearly 17 years as a privileged Member of this body, I have seen many instances where unforeseen spending requirements from hurricanes to peacekeeping operations have arisen and been funded by the Congress. These will surely occur from now until the year 2002 when the deficit is projected to disappear.  
We are now committed to making our Government live within the funding levels contained in this bill. If emergencies occur, we will have to offset their costs with spending reductions. Those budget decisions will be as difficult in the year 2000 as they are this year. But this package is a commitment by the Republican majority and eventually by the entire Congress that we will stay the course.  
Mr. President, I yield the floor.  
CAPITAL GAINS TAX CUTS A BOOST TO ECONOMIC GROWTH  
Mr. HATCH. Mr. President, I rise in support of the capital gains tax cut provisions in the budget reconciliation bill that lies before us today.  
I would like to focus my remarks on the economic effects that these provisions will have on our country.  
Mr. President, what often seems to get lost in all of the debate about capital gains is economics.  
Opponents of the capital gains tax cut seem content to promote class warfare while ignoring the economic effects of such a change. It seems to me, however, that instead of worrying about whether the so-called rich will pay less in taxes under this bill, the most important thing to focus on is how to sustain and boost our economic growth and balance the budget and create the jobs needed by the next generation.  
The respected economic forecasting firm of DRI/McGraw Hill has studied the provisions very carefully. Their findings appear on this chart 1 following this statement.  
First, we should note that between now and 1999, DRI projects that about 1.2 million new jobs will be created as a direct result of the capital gains provisions contained in this bill.  
Of paramount concern to all of us is the need to expand the job base so that no matter where one is on the ladder of success, there is opportunity to move up economically.  
As chart 2 shows, most of the new job creation taking place in this country is provided by new companies and those that are in the early phases of their growth cycles.  
Look at the figures—while large companies are in the downsizing mode, small and medium companies are expanding.  
The expanding companies are not the long-established blue chippers. There is more risk involved in the investing in these emerging enterprises than in mature companies.  
By lowering the effective capital gains tax rates, the risk threshold for all investors will decrease and this will cause more equity funds to become available to companies that are in the growth stage.  
I am pleased to support the budget reconciliation bill. It will move our economy forward and we support the capital gains tax cut provisions in the bill.  
Because of the capital gains provisions in this bill, we should experience a 1 percent increase in our capital stock, a 5.1 percent increase in fixed investments and a 1.2 percent increase in labor productivity.  
What does capital stock refer to? It refers to our investment in plant, equipment, and technology. Even a ditch digger needs a shovel.  
While hundreds of millions of laborers around the world work for mere pennies per hour, how is it that most of our American jobs have not already been exported outside of our country? The answer is capital stock.  
We have one of the highest ratios in the world of capital stock per labor hour worked.  
In other words, for each hour a laborer works, we have more capital invested to support that worker in his or her job than most of our competitors around the world.  
As a result, on a per capita basis, American workers are the most productive in the world.  
This explains how our country grew from a predominantly agricultural economy to a predominantly manufacturing and service-based economy without reducing our agricultural output.  
It has been estimated that at the turn of the century, about two-thirds of the American work force were in farming.
Today, only about 3 percent of Americans work in farming. Yet, our grocery stores and storage facilities are filled to overflowing even though the number of mouths to feed has gone up and the number of agricultural workers has gone down dramatically.

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

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

Mr. President, the critical relationship between capital stock and real wage rates is illustrated by chart 1. Note that as our capital stock grows, real wage rates climb almost in lock-step. Thus, it is critical that we maintain growth in both capital stock, fixed asset investment, and worker productivity.

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

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

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

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

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

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

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

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

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

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

Before the Hatch-Lieberman capital gains proposal underwent minor changes in the Senate Finance Committee, the Joint Committee on Taxation projected that it would result in about $85 billion in lost Federal revenues over 10 years.

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

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

In connection with estimated capital gains realizations for 1991, CBO originally projected realizations of $286 billion while the Joint Committee on Taxation projected realizations of $285 billion.

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

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

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

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

This explains the wide divergence between their projections and reality.

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

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

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

DRI has included these feedback effects in its work.

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

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

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

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

Chart 3 shows the foregone realizations that were missed by the 1986 capital gains tax increase.

The lighter bars indicate actual realizations. Notice, Mr. President, how they drop off and stagnate after 1986 while the Standard and Poor's stock index and the S&P 500 Index continued to rise.

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

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

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

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

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

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

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

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


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

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

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

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

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

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

Trying to craft a set of incentives that exempts from coverage the very
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people whose conduct is critical to the attainment of our economic goals just what has been achieved.

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

As I mentioned earlier, at stake in all of this is about $3 trillion of locked-in capital gains, which if unlocked, would produce substantial revenue gains to the Treasury, as well as create more jobs and economic growth for all Americans.

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

As a division of a major parent company, Sungard Data Systems had $30 million in annual sales but was losing money. The parent company decided to sell this division. Venture capitalists believed that they could turn things around and return Sungard to profitability. The new buyers were correct.

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

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

Did the rich venture capitalists get richer from all of this? Of course they did. But most importantly, 2,500 people had good jobs that did not exist before. This is the way our economy has always worked.

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

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

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

Mr. President, I ask unanimous consent that items referred to above be in order before the sale turned into a 2,400-million dollar operation.

U.S. AFFILIATED INSULAR AREAS

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

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

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

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

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

Second, Public Law 99-239 also authorizes immigration from the former Trust Territory of the Pacific Islands to the United States and its territories. In recognition of the impact which this immigration would have on social services, particularly in Guam, section 101(h) of Public Law 99-239 authorizes compensation to Guam for the negative impacts of immigration under the compacts.

Third, economic development in remote American Samoa is still unable to generate sufficient revenue to meet all of the territory’s basic needs. Of greatest concern is the Environmental Protection Agency’s $120 million backlog in waste water construction. If these projects are not undertaken, then the community will face an increasing risk of contamination of its groundwater, as well as destruction of its protective and productive surrounding coral reefs.

In addition, American Samoa’s hospital facilities are nearing the end of their useful life. The Department of the Interior and the Army Corps of Engineers estimate replacement costs for healthcare facilities to be between $20 and $60 million.

Finally, the fourth obligation facing the Federal Government with respect to the islands is fulfilling our commitment to the CNMI. In 1992, the previous administration and representatives of the CNMI reached an agreement under which the Federal Government would provide $120 million in financial assistance to the CNMI, to be matched by $120 million from the CNMI, to meet the capital infrastructure needs of their rapidly growing population and economy. From 1993 to 1995 much of these funds were provided to the CNMI under the mandatory appropriation established under section 705 of Public Law 94-241, the Covenant to Establish the Commonwealth of the Northern Mariana Islands Foreign Islands.

However, $77 million remains to be paid under the agreement.

Given the extreme pressure on the budget, how were these needs and obligations to the islands met? Fortunately, the administration proposed a solution which would allow the appropriations committees to avoid the nearly impossible task of meeting theseneeds through large annual discretionary appropriations.

The proposal, contained in the Insular Development Act (S. 638), was to reallocate the CNMI’s $27.7 million mandatory annual appropriation to the needs among all of the islands. The Energy Committee held a hearing on this bill on May 25, 1995, and the full Senate passed the bill on July 20. The Office of Management and Budget and the House and Senate Appropriations Committees supported the proposal because it would allow for significant discretionary savings.

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

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

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

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

Mr. AKAKA. I agree with the Chairman.

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

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

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

Mr. AKAKA. I thank my good friend and would also like to ask the chairman of the Committee on Appropriations what my understanding on these matters is correct.

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

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

S. 15792

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October 25, 1995

Chairman.

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

Mr. AKAKA. I thank the Chairman for his reassurance. Mr. President, if I were asked to ask the Senior Senator from Hawaii, for his support on this matter.

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

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

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

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

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

For the fiscal year that ended on September 30 the Federal Government ran a deficit of $161 billion. If nothing is done and we do not change our spending habits, that deficit will rise to $250 billion by 2002. We must stop borrowing from the future and learn to live within our means. This budget reconciliation bill gives us the blueprint to accomplish that task.

While the American people made it clear that they wanted the Federal budget balanced, they also made it clear that they wanted meaningful tax relief. The Republican leadership heard that message loud and clear. Besides balancing the Federal budget by the year 2002, the Reconciliation Act of 1995 provides the biggest tax cut in history—more than $25 billion of
these cuts 84 percent go to those mak-

ing less than $10,000 and 70 percent go
to those making less than $75,000.

These proposals, and other significant tax
reform for service. I believe this is outrageous.

To tell people in this country that they
may not provide for their own health

care as they see fit violates the basic

principles of freedom for which so

many of our seniors fought and sac-
rificed. Some have claimed seniors

have all the choice they need, but that

is simply not true. When older people

are turned away from a health care

provider’s office because the provider

no longer wishes to struggle with the

regulations and bureaucracy surround-

ing the Medicare Program, they have

no choice. This must simply change.

So when I asked for choices will seniors
get to make? Under the Republican
proposal they can stay enrolled in the
current Medicare program. Those wish-
ting to go beyond the present system
may choose from traditional fee-for-

service, Medicare + Choice plans—(just

like many of them had before retire-

ment), coordinated care plans, and

high-deductible health plans with med-

ical savings accounts, also known as

MSAs. In addition, the Medicare re-

form plan allows future enrollees to se-

lect from yet unforeseen health options

as they become available, provided the

plans meet minimum Federal standards.

This, I would say to my col-

leagues, is the kind of choice most

Americans already have. Do our senior
citizens deserve any less?

The Medicare reform plan we are de-

bating also addresses another issue,

fraud, which Idahoans have told me

should be one of the primary focal

points of any reform effort. I am

pleased our plan takes serious efforts
to reduce health care fraud and abuse.

Specifically, the bill provides for the

establishment of coordinated efforts by

Federal, State, and local law enforce-

ment officials to combat fraud. The bill

also instructs the Secretary of Health

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We all know the level of political

rhetoric which has surrounded the is-

sue of health care reform. The fact re-
mains, however, unless something is
done and done soon, Medicare will go

bankrupt. This is not a political issue.

This is not a matter of just whether or

not Republicans want to change the

system. It is a question of whether or

not we have the courage to make the
tough decisions needed to save the sys-

tem. Simply delaying the pending bank-
ruptcy for a couple of years will not

be sufficient. We have had enough of

that attitude. It is time to stand

firm and to stop avoiding the difficult
decisions before us. I believe the Re-

publican Medicare reform package does
just that.

The contents of the Medicare reform
proposal have been significantly mis-

represented. I believe it is important to
point out what that measure reported out

of the Finance Committee does not.

The first thing the plan does is pro-

vide choice. For too long we have told

this Nation’s senior citizens that they

may not have a choice. When they turn

65, they are placed on Medicare, whe-

ever they want it or not. Until recently,

only a few were even allowed to choose

managed care options instead of fee-

For example: A $500 per child under 18 tax credit for cou-
ples earning $110,000 or less annually.

50 percent credit of interest paid on stu-

dent loans up to $500 per year, per borrower,

for couples with an adjusted gross income

of $80,000.

Raising the income limits for eligibility

for IRA’s by $5,000 annually until they reach

$100,000 for couples and $85,000 for singles

and individuals. 30 years ago, when creating a $2,000

IRA for homemakers.

Capital gains reform that deducts 50 per-

cent of the gain for individuals that have

owned property at least 1 year, which effec-

tively lowers the tax rate to 19.8 percent. A

reduction of the corporate rate on tax gains
to 15 percent. Both changes are effective 10-

13-95.

Estate tax reforms that will allow more

Americans to continue operating family

owned businesses by taxing only the

primary owner/Founder. The first $1.5 million in

value of family owned businesses and farms

are exempt from tax and the tax on the next

$1.5 million is reduced by 50 percent.

These tax cuts are both responsive and

responsible solutions to the exces-
tive taxation that is stealing the finan-
cial independence from American fami-

lies across this country.

The Medicare portion of the budget

reconciliation package is, in every

sense of the word, true reform. It takes

the current system, which is so obvi-

ously flawed and damaged beyond sim-

ple Band-Aid fixes, and transforms it

into something which will truly work.

It will work not only to meet the

health care needs of current and future

senior citizens, it will work to allow the

people, to shape the future of health

care.

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

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

Mr. PRYOR. Mr. President, as many of my colleagues are aware, there are a number of tax issues of significant importance to the 19 million American businesses that are S corporations that did not get resolved during the Finance Committee Markup last week. Many of those issues—which include the current law's severe limitations on capital formation, growth, corporate streamlining, family business planning, estate planning, and tax simplification—are addressed in a bill I introduced earlier this year with my colleague from Utah, Senator HATCH. That bill, S. 758, the S Corporation Reform Act of 1995, has the bipartisan cosponsorship of a third of the Senate.

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

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

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

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

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

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

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

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

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

Mr. WARNER. Mr. President, seeing no other Senators seeking recognition, I would like to suggest the PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

While this is refreshing contrast this balanced budget reconciliation bill is to the budget proposals submitted over the past 2 years by the President. Those budgets enacted the largest tax increases without any plan to balance the budget, significantly increased the national debt, failed to restrain growth in nondefense Government spending and proposed dangerous reductions in national defense spending.

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

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

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

Mr. President, I support the Balanced Budget Reconciliation Act of 1995. I voted for reducing the national debt. I voted for controlling the growth of Government spending. I vote yes for our families by reducing their tax burden. I vote yes for our children by reducing the national debt. I vote yes for our children by reducing the national debt.

I ask unanimous consent that the order for the quorum call be rescinded.

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

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

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

Mr. COHEN. Mr. President, I was here listening to the distinguished Senator from South Carolina talking a moment ago. As always, I am impressed with his vigor, vitality, and enthusiasm. Indeed, I am here to encourage my colleagues to do likewise.

I also found myself in agreement with much, if not most, of what he was saying. I agree that we should vote yes on deficit reduction, and I see my friend from New Mexico here. I want to tell him how much I admire him personally, the job he has done and the work that he has put in over the years on the Budget Committee, the years he has spent dedicating himself to budget reduction and trying to achieve a balanced budget for this country. So I do not want him in any way to regard the comments I might make in the next few moments as being in derogation of my respect and admiration for the job he has done and I hope he has thereby been regarded as untouchable, being third rails we cannot touch. I think we have reached the point in our history where we have to look at virtually every program and not decide that any of them are immune from reform, from trimming, from cutting, maybe even elimination.

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

I was pleased to hear President Clinton indicate that he. No. 1, believes we should strive for a balanced budget. Initially he said 10 years, then it was 9 years, and now I believe it is even 7 years.
years. I think that is quite a concession on his part, that he agrees that we ought to have a balanced budget within a 7-year period.

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

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

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

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

I may, in fact, offer an amendment to strike the tax cuts in their entirety. But it may be that that matter has already been debated long enough on the Senate floor. It is my personal judgment that we ought to do everything we can to make the reductions that we have long deferred in making. That we can to make the reductions that we have long deferred in making. That we can to make the reductions that we have long deferred in making.

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

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

The PRESIDING OFFICER. The 15 minutes has expired.

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

The PRESIDING OFFICER. The Senator needs to call that amendment up.
should be—or that we intend to be, for that matter—in supplying copies of the amendments to the other side. I am not saying it is just on your side, it is on our side as well. Suffice to say, I am ready to yield the remainder of my time. I believe—if the chairman agrees—that would take us to the Harkin amendment.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. EXON. Yes.

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

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

Otherwise we are just singing in the dark.

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

The PRESIDENT OFFICER. Is there a sufficient second?

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

AMENDMENT NO. 2753

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

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

Mr. HARKIN. A amendment inquiry. Mr. President, how much time do we have?

The PRESIDENT OFFICER. The Senator has 5 minutes.

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

The PRESIDENT OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. GRAHAM and Mr. BIDEN, proposes an amendment numbered 2753.

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

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

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

Mr. HARKIN. I yield myself 2 minutes.

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

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

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

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

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

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

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

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

How can you say you do not support it in Medicare when you have it in the VA, when the VA spends 4 cents for the same bandage that Medicare spends 86 cents for? If oxygen cost $360 for rental of oxygen; the Veterans Administration pays less than half that.

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

I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. I compliment the Senator from Iowa.

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

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

At least it is not what the Gingrich bill in the House does which makes it easier for health care providers to engage in fraud. Literally, not figuratively.

Last, the point made by the Senator, there is $18 billion in Medicare fraud a year, and $16 billion in Medicaid a year. I see no legitimate rationale for not tightening this up unless there is some outrageous special interest that thinks it would benefit from it. I see none. Prosecutors want it. Prosecutors ask for it.

I held a hearing in my State where I had the top prosecutors fromPhiladelphia and the top prosecutors from the State of Delaware. They point out that the House bill, which set them back decades—this bill would not do much. It would make a significant impact on their ability to deal with health care fraud.

I thank my colleague for his leadership and allowing me the minutes.

The PRESIDENT OFFICER. The Senator has 1 minute and 30 seconds remaining.

Mr. HARKIN. I will reserve my time if the other side wants to speak.

Mr. DOMENICI. I yield 5 minutes in opposition to Senator COHEN.

Mr. COHEN. Mr. President, ordinarily I find myself in agreement with the Senator from Iowa, dealing with health care fraud, but I must say in this particular circumstance I have to rise in opposition. not because I am opposed to what he is seeking to do but rather I believe that while his proposal undeniably addresses fraud and abuse in the health care system has merit, they also compromised some of the more important facets of the health care fraud bill we were successful in including in the Finance Committee package as such. None of the 32 amendments that have been holding hearings. As a matter of fact, it was a report that the minority staff issued on health care fraud which produced the estimates from GAO, as well as our own staff, showing that there is $100 billion being lost annually in our health care system.

As far as the Federal portion of that, it is anywhere from $27 to $40 million, depending on which Federal programs are included. We are losing billions of dollars through our health care system through fraud now.

What we have tried to do in the proposal that was agreed to by the Finance Committee is to structure it in a way that actually produces savings—this $4.2 billion.

The amendment of the Senator from Iowa, as I understand it—unfortunately, because of the time limitations we have. I believe some of my provisions have been deleted that are in the health care fraud bill. I am advised that CBO has concluded that this dutes some of the $4.2 billion in savings.
of the Senator from Iowa is expired. Let there be no question about this. Mr. HARKIN has 1 minute and 14 seconds. The Senator from Iowa may use a different method of calculating those savings. What we have tried to do is structure it in a way which we could get provider groups to agree to. This has been a no easy task. We have met with provider groups, with consumers, with health care advocates, with the FBI, with the Justice Department, with the White House.

We put together a package which we believe enjoys broad support which has been scored as saving $4.2 billion. Under these circumstances, I find myself in opposition to the amendment not because I am opposed to what the Senator from Iowa seeks to do, but by virtue of the fact this may undermine to some degree and dilute to some degree, which I do not know what extent, the $4.2 billion which has currently been scored by CBO.

For those reasons I rise in opposition to the amendment of the Senator. The PRESIDING OFFICER. The Senator from New Mexico has 1 minute and 50 seconds and the Senator from Iowa has 1 minute and 14 seconds.

Mr. HARKIN. I yield 30 seconds to the Senator from Nebraska.

Mr. EXON. Mr. President, I am somewhat disappointed. I thought this was perhaps one amendment that we could get Republican agreement on. This is a good amendment. There may be reasons to oppose it, but I do not know what they are and they have not been explained to me.

Mr. HARKIN. I am befuddled. Mr. President, to say to friend from Maine, the CBO cannot want on the record—the CBO has scored our amendment as saving more money than is in the bill. I want that on the record. That is so.

We did not weaken the provisions in the bill, we significantly strengthened them. For example, as I pointed out, we require the commercial software, we increase the paperwork by having one claim form. We require the competitive bidding and we prohibit Medicare payments for unnecessary things like personal use of automobiles, tickets to Broadway shows, things like that. And CBO has certified that this amendment saves more money than the underlying bill's provisions.

Mr. COHEN. We are basically in agreement. We are seeking to do what we are seeking to do, but I have been advised that CBO indicates this would reduce the $4.2 billion by—

Mr. HARKIN. Absolutely not. CBO said today it would save $4.7 billion, considerably more than the underlying bill. Let there be no question about that.

The PRESIDING OFFICER. The time of the Senator from Iowa is expired.

Mr. DOMENICI. I yield back the balance of our time.

Mrs. MURRAY. Mr. President, the Harkin amendment to remove fraud and abuse from Medicare would require competitive bidding for Medicare part B items and services. I have heard from owners of numerous medical supply businesses in my State who tell me they will be driven out of business by this amendment provision. They tell me services will be cut to rural areas. They tell me services involved with setting up and instructing about medical equipment is essential for patients, and will be threatened. They tell me services involved with setting up and instructing about medical equipment is essential for patients, and will be threatened. They tell me.

Senator HARKIN has made changes to his amendment language to maintain access to services for rural and underserved areas. He has made changes to assure quality assurance standards, so that large companies are not able to undercut their competition simply by providing shoddy supplies and equipment.

He points out the large difference between prices for supplies at Veterans Administration hospitals—which have competitive bidding—and prices from providers under Medicare part B. He makes a good case for solving some of our Medicare cost problems with a clear goal to find efficiency through competitive bidding, rather than just a budget decision.

In light of these changes, I will vote for the amendment. Mr. President, but I want to be sure that we are doing everything we can to make this transition survivable for health care providers. Mr. GRAHAM. Mr. President, I ask unanimous consent for 10 seconds in order to have items printed in the RECORD.

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

Mr. GRAHAM. Mr. President, I would like to have printed in the RECORD various documents, including a letter from the inspector general of the Department of HHS and statements by the Secretary of the Department and the Attorney General. They all go to the point that we need to have as strong an antifraud position as possible in the Senate version of the Medicare bill, because the House version is woefully weak. I support the joint efforts of my colleagues from Iowa and Maine in assuring that goal.

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

The PRESIDING OFFICER. The time being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES. OFFICE OF INSPECTOR GENERAL.
of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP nonenforcement.

H.R. 2389 Proposal: Section 201 would redefine the term "should know" in a manner which does away with the duty on providers to guard against fraud by reasonable diligence, if the provider was true and accurate claims. Under this definition, providers would only be liable if they act with "reckless disregard" of false claims, or if they act with "reckless disregard of false claims. In an era where there is great concern about fraud and abuse of the Medicare system, it would not be reasonable to require providers to act with reasonable diligence to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it prohibits the imposition of CMPs at all. On the other hand, it is hard for the Government to penetrate. These types of evidence are rarely clear and precise. As with any intent-based statute, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant acted with the improper intent.

The difficulties of establishing intent are multiple by the complexity, size, and dynamism of the health care industry, as well as the sophistication of most kickback schemes. Participants are 'pre-sanitized' by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has to prove that 'the significant purpose' of a payment was to induce referrals. The payments to referral sources are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

However, the nature of kickbacks and the health care industry requires the interpretation of different statutes. The prosecutor must prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the prosecution must establish the defendant's state of mind. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence of the defendant's actions. This evidence usually includes payments, business practices, and advertising. It is difficult for the prosecution to prove that a defendant had the improper intent.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million in fines for kickbacks to patients. In 1990, Caremark, Inc. paid $161 million for giving kickbacks to physicians who ordered very expensive pharmaceuticals. These payments are common and constitute a serious problem in the Medicare and Medicaid programs.

There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as high health maintenance organizations (HMOs) doing business with Medicare, consist of providers who are at risk for the financial success of their business. The providers are at risk for raising their agreements to pay for referrals, or pay referral agents. Most kickbacks have sophisticated disguises, like consultation arrangements, rebates, etc. These disguises make it a criminal offense knowingly and in violation of Federal statutes at this time.

The proposed amendment would overturn the finding that Medicare does not have the duty to prove the significant purpose of a payment was to induce referrals.

If the Government had to prove that 'the significant purpose' of a payment was to induce referrals, it would be impossible to prove the significant purpose of a payment to induce referrals. If the significant purpose was to induce referrals, the significant purpose of the payment was to induce referrals. The significant purpose of the payment was to induce referrals. The significant purpose of the payment was to induce referrals. The significant purpose of the payment was to induce referrals.

Where the defendant could argue that 'the significant purpose' of the payment was to induce referrals, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant had the improper intent. Most defendants are careful what they say. In most kickback prosecutions, the Government has to prove that 'the significant purpose' of a payment was to induce referrals. The payments to referral sources are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

H.R. 2389 Proposal: Section 201 would require the Government to prove that 'the significant purpose' of a payment was to induce referrals of business. The phrase "the significant purpose" implies there can only be one "significant purpose" of a payment. If so, at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, it would threaten the Government's ability to prosecute all the most blatant kickback arrangements.

The courts interpreting the anti-kickback statute agree that the statute applies to the payment of remuneration "if one purpose of the payment was to induce referrals." United States v. Bencher, 875 F.2d 105 (10th Cir. 1989) (emphasis added). If payments were intended to induce a physician to refer patients, the significance of the payments could be minimized, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also United States v. Kasa, 871 F.2d 105, 108 (1st Cir. 1989) (as long as the kickback stated in the kickback statute may be appropriate for capitated, at-risk entities like the HMO described above, such protection for managed care organizations in the fee for service system would invite serious abuse.

H.R. 2389 Proposal: Section 202 would establish broad new exceptions under the anti-kickback statute for "any capitation, risk-sharing, or disease management program." The broad definition of what would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is a "disease management program," if enacted it would threaten the Government to prove that "the significant purpose" of a payment was to induce referrals. If the Government had to prove that 'the significant purpose' of a payment was to induce referrals, it would be impossible to prove the significant purpose of a payment to induce referrals. If the significant purpose was to induce referrals, the significant purpose of the payment was to induce referrals. The significant purpose of the payment was to induce referrals. The significant purpose of the payment was to induce referrals. The significant purpose of the payment was to induce referrals.

Nefarious organizations could easily escape the kickback statute by simply rear- range their agreements to fall within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape liability by establishing some form of a "disease management program that does not term include most of health care.

Many discounting programs are designed expressly to thwart the fee for service away from Medicare. The scheme is to give little or no discount on an item or service separately billed to Medicare. And give large discounts on items not separately billed to Medicare. This scheme results in Medicare paying a higher percentage for the separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a predetermined fee (such as lab tests paid by Medicare to the facility that billed the lab payment). If the facility refers to the lab a separately billed Medicare lab work, for which no discount is given. The lab charges this "combination" discount, which is a discount on some items and not on others. Another example is where ancillary or noncovered supplies furnished to Medicare are billed at list price or full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a "free" adult dia- pers. The discount has not been shared in these combination discounts.

H.R. 2389 Proposal: Section 202 would permit discounts on one item in a combination where no discounts are given on other items in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissible for a supplier...
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to offer a discount on a combination of items or services as long as every item or service separately billed to the Government receives less of a discount than is applied to other items in the combination. If the items or services billed separately were Medicaid reimbursable, Medicaid receives less of a discount than other items in the combination. Medicare and Medicaid are not receiving their fair share of the discounts.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers advisory opinions under the anti-kickback statute. Advisory opinions are not required under the statute, but the Government has discretion to issue them. The Department of Justice (DOJ), the Department of Health and Human Services (HHS), and the Department of Labor (DOL) have issued advisory opinions in the past, typically in areas where there might be confusion about what is or is not a violation of the anti-kickback statute.

Industry groups have been seeking advisory opinions under the anti-kickback statute for many years, with vigorous opposition by the Department of Justice (DOJ) and the HHS Office of Inspector General (OIG) under the last three administrations, as well as the National Association of Attorneys General. In 1993, DOJ again called for the issuance of advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue advisory opinions describing activities which would not be subject to criminal prosecution or exclusion. Section 14 of Public Law 100–203.

To date, the OIG has issued 13 final anti-kickback ‘safe harbor’ rules and solicited comment on 8 additional proposed safe harbor rules. For a total of 21 final and proposed safe harbors. Over 50 pages of explanatory material has been published in the Federal Register regarding these proposed and final rules. The OIG has issued 13 general ‘fraud alerts’ describing activity which is suspect under the anti-kickback statute. Thus, the Government provides guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal: HHS would be required to issue advisory opinions to the public on the Medicare/Medicaid anti-kickback statute (defined by the Social Security Act) as well as all other criminal authorities, civil monetary penalty and exclusion authorities. HHS would be responsible for responding to requests for advisory opinions within 30 days. HHS would be authorized to charge requests for advisory opinions a fee to cover the cost of this service. The fee would be deposited in the Treasury as miscellaneous receipts.

Major problems withanti-kickback advisory opinions include:

Advisory opinions on intent-based statutes (such as the anti-kickback statute) are impractical if not impossible. Because of the inherently subjective, factual nature of intent, it is impossible for the Government to determine intent based solely upon a written submission from the requestor. Indeed, it does not make sense for a requestor to ask the Government to determine the requestor’s own intent. Obviously, the requestor already knows what their intent is.

None of the existing advisory opinion processes in the Federal Government provide advisory opinions regarding the issue of the requestor’s intent. An advisory opinion process for an intent-based statute is without precedent in U.S. law.

The advisory opinion process in H.R. 2389 would severely hamper the Government’s ability to prosecute health care fraud. Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the defendant read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would be forced to prove beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Advisory opinions would likely require enormous resources and many full time equivalents (FTE) at HHS. The user fees in H.R. 2389 would be unrelated to the Government’s costs of issuing advisory opinions. If they did go to HHS, appropriations committees would likely set aside advisory opinion requests. There are no guidelines for the number of requests that may be processed. Advisory opinions would severely hamper the Government’s requestor’s intent. An advisory opinion process for intent-based statutes would therefore be deposited in the Treasury (such as the anti-kickback statute) is impossible. Congress required HHS, in consultation with the Attorney General, to issue advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue advisory opinions describing activities which would not be subject to criminal prosecution or exclusion. Section 14 of Public Law 100–203.

In summary, H.R. 2389 would:

- Relieve providers of the legal duty to use good faith diligence to ensure that the claims they submit are true and accurate.
- This is the effect of increasing the Government’s burden of proof in civil monetary penalty cases.
- Substantially increase the Government’s burden of proof in anti-kickback cases.
- Create new exemptions to the anti-kickback statute which could be readily exploited by those who wish to pay kickbacks to physicians for referrals of patients.
- Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law, since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory writers, and funding an enormous resource.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

Sincerely,

JUNE GIBBS BROWN
Inspector General.

PRESS CONFERENCE OF ATTORNEY GENERAL JANET RENO ON HEALTH CARE FRAUD, OCTOBER 26, 1995

Attorney General RENO. Thank you, Secretary Shalala.

The House Medicare bill would make it more difficult for us to prosecute medical providers for fraudulent claims. It would take kickbacks and steal money from us all. White collar crooks who pay or receive kickbacks endanger the health of patients and the Medicare system. These provisions are totally inconsistent with the provisions in the Senate bill, which would facilitate our law enforcement efforts against health care fraud that harms us all and particularly our most vulnerable.

I understand that some members of the House of Representatives have indicated that law enforcement should not be criminally prosecuting health care providers who engaged in fraud. I just don’t understand that. If I believe that health care fraud is so detrimental to the health and to the pocketbook of all Americans, that I made health care fraud one of my priorities in the Department of Justice, I believe perpetrators of health care fraud should not be protected from criminal prosecution because they commit a crime in a boardroom, in a laboratory, rather than in the street. White collar crooks who pay or receive kickbacks endanger the health of patients and steal money from us all.

Experts estimate it may cost Americans as much as $100 billion a year. That is why we need stronger, not weaker, provisions in the House bill. The Senate bill, under the leadership of Senator Cohen and with bipartisan support, provides the strengthened provisions by the Medicare carriers and intermediaries. Since the bill would prohibit carriers and intermediaries from performing these functions in the future, there appears to be no increase in these functions, but only a different funding mechanism.

These ‘soft’ review and education functions are no substitute for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 would not result in any more Medicare convictions and sanctions.

In summary, H.R. 2389 would:

- Create new exemptions to the anti-kickback statute which could be readily exploited by those who wish to pay kickbacks to physicians for referrals of patients.
- Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law, since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory writers, and funding an enormous resource.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

I ask you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN
Inspector General.
particularly at this time, we need to preserve every Medicare trust fund dollar. We cannot allow dollars that are supposed to benefit those who are ill to be diverted to kickbacks paid to doctors and others as inducement for the referral of Medicare patients. Even more importantly, we cannot allow financial incentives to corrupt the professional judgment of medical providers—providers who Americans have been taught to trust to give them care when they are ill in and out—whether and where to hospitalize a patient, what laboratory tests to order, what surgical procedure to perform. We cannot count on how long it keeps a patient in a psychiatric facility—affect the health and well-being of our elderly patients and our children. Allowing these decisions to be made under the influence of kickbacks is just plain wrong.

The House bill would place a very high, additional burden on the Government in its attempts to prosecute those who pay or receive kickbacks for the purpose of inducing the referral of Medicare business. Existing law requires the Government to prove that the purpose of the kickback was to induce the referral of health care business. The language of the House bill would require the Government prove that the payment was made for the significant purpose of inducing the referral. That language would mean that the Government would have to prove that money for referring business, particularly money for referring Medicare business, that's one thing. But to have to prove that the payment was made for the significant purpose of inducing the referral. That's language that would make it much harder to prosecute.

Question. Attorney General Reno, I think it will enable those enforcement officers involved to understand when they can and can't use deadly force and I think the message will be clear.

Question. Attorney General Shalala, will you ask the President to veto this bill unless this is modified?

Answer. Attorney General Shalala. There are so many provisions in the Republicans bill that I have already sent a letter to the Hill indicating that if they adopt the bill as it's now written that I will recommend that the President veto it. I will join with the Attorney General after we review the final version of the additional comment for the President advising him on the bill. But these are simply unacceptable and I think that's our position today.

Question. Attorney General Reno. It doesn't cover some Government programs. We would like to see it expanded to others: to the Federal Health employees benefits program to the CHAMPUS program on behalf of the Department of Justice.

Question. But it doesn't cover kickbacks—

Attorney General Reno. In the private sector.

Question [continuing]. Not involving Medicare or Medicaid?

Attorney General Reno. That's correct.

Question. Do you know, as a practical matter, how the change in the standard of proof would affect the prosecution?

Attorney General Shalala. I think the cases that we gave you as the examples we would probably not be able to prosecute.

Question. Attorney General Reno. If I can prove one purpose it is a significant purpose. It is I think the provisions for Medicare and Medicaid violations only or do some of them include kickback statutes that cover general medical operations. Not Government

Attorney General Shalala. It's true that we have a number of them. The American Medical Association has, as you pointed out, urged the Republicans to change this?

Attorney General Reno. It is. And we have urged the Republicans to change this. The American Medical Association to join you in urging the Republicans to change this?

Answer. Attorney General Shalala. There are numerous organizations that have now spoken out on this issue. Most of them have been the State

Answer. Attorney General Shalala. Well. I have long ago learned not to anticipate the motivations, but they clearly are weakening our ability to get fraud out of the system. Particularly, it's particularly damaging during an era, as the Attorney General pointed out, where we're trying to squeeze every dollar we can out of Medicare to invest in the trust fund. And the last things we should be doing is wasting money and we're doing that off the hill.

Question. Attorney General Shalala. What's the difference from the way it would be.

Answer. Attorney General Reno. Different Department of departments had different provisions and this is not the case that I think it will help people to understand when deadly force can be used. It will apply to each agency and I am very delighted about that.

Question. What is the real change that this policy makes?

Answer. Attorney General Shalala. This policy will—

Question. What is the real change that this policy makes?

Answer. Attorney General Reno. This policy will--

Question. What's the difference from the way it would be.
a doctor can own a laboratory and then refer his patients to a laboratory in which he has a financial interest. That law was changed a number of years ago because of the abuse that was found in the system. There were more referrals if the doctors owned the lab. And that was barred by the law. And the American Medical Association has favored repealing the law which we are, of course, opposed to.

QUESTION. Are there any examples of fraud cases that stand out that would be good to point to related to this?

Mr. MCCAIN. Mr. President, would you like me to have the clerk’s staff report?

The PRESIDING OFFICER. Mr. MCCAIN, you wish to have the clerk report?

Mr. MCCAIN. Mr. President, I do ask if it will be in order to ask for the yeas and nays to be taken on the Harkin amendment even if we now proceed to the amendment of the Senator from Arizona?

The PRESIDING OFFICER. It will be in order to do that when the amendment recurs for a vote.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. PENDLETON, Mr. THOMPSON, Mr. KERRY, and Mr. FAULCONBROWN, proposes an amendment numbered 291.

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

The PRESIDING OFFICER. Without objection. It is so ordered.

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

Mr. MCCAIN. Mr. President I yield myself 4 minutes of the 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this is a bipartisan amendment, which has been endorsed by the Citizens Against Government Waste and Citizens for a Sound Economy, which would terminate or substantially reform a dozen Federal programs identified by the Cato Institute and the Progressive Policy Institute as amongst the most egregious forms of corporate welfare in the Federal budget. These amount to savings of about $60 billion over the next 7 years. These are the Marketing Promotion Program, the advanced light water reactor, Forest Road Construction Program, highway demonstration projects, military export sales, broadcast spectrum auction, Export/Import Bank, the B-2 bomber, Travel and Tourism Promotion, sub-and supercritical research.

Mr. ROCKEFELLER. Mr. President, will the Senator yield for a friendly inquiry?

Mr. MCCAIN. I only have 4 minutes. I say to my colleague.

Mr. ROCKEFELLER. May I have 5 seconds and a half?

Mr. MCCAIN. If you ask unanimous consent, I will be glad to yield.

Mr. ROCKEFELLER. Can the Senate get a copy of your amendment now? We have nothing.

Mr. MCCAIN. Absolutely. Mr. ROCKEFELLER, I do not want to embarrass the U.S. Senate.

Mr. MCCAIN. I will make sure the Senator gets a copy of the amendment.

Mr. Domenici. We delivered a copy of the amendment.

Mr. MCCAIN. I only have 4 minutes. I ask unanimous consent that the amendment be dispensed with.

Mr. Domenici. Mr. President, could you ask unanimous consent that the amendment be dispensed with.

Mr. MCCAIN. Mr. President, I yield myself 4 minutes of the 5 minutes.

We are considering historic legislation to place the Federal budget on a 7-year path toward balance and to reform unemployment programs which threaten to bankrupt our Nation. If we are going to restore fiscal sanity and if we are going to ask poor people to take cuts in their programs, if we are going to reduce the rate of growth of many, many programs that have been designed as a safety net for those less well off in our society, if we are going to have credibility with the American people, we had better go after this corporate pork and we better do it soon. Otherwise, we will open ourselves to justifiable criticism that we take care of corporate America while we do not take care of citizens who are less fortunate than we in our society.

I think it is an important amendment. I think it is going to put the Senate on record as to exactly where we stand on some of these programs that have clearly not required Federal funding in order to continue.

We owe a debt of gratitude to the President and Congress for breaking the (budget) impasse and substantially reducing spending and putting us in a position where they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize inefficient industries.

I reserve my 1 minute.

Mr. KENNEDY. Mr. President, at a time when deep cuts are being proposed in Medicare, Medicaid, education, the earned income tax credit, welfare benefits, and other important programs for the working and least fortunate families, it is essential to see that corporate welfare—government subsidies to wealthy corporations—bears its fair share of the sacrifices needed to put the Nation’s fiscal house in order.

I welcome the opportunity to work with Senator MCCAIN and other Senators in this bipartisan effort. We have identified a dirty dozen examples of corporate welfare that ought to be ended or drastically reduced.

My hope is that the current efforts will become the foundation for a longer-term initiative to deal more effectively with the wider range of corporate welfare programs on both the spending side and the tax side of the Federal budget.

At a time when we are cutting billions of dollars from health benefits for the elderly, it makes no sense to continue to give away billions to wealthy telecommunications corporations by failing to obtain fair market value by auctioning electronic spectrum.

At a time when we are imposing billions of dollars in new taxes on our working families, it makes no sense to spend billions of dollars on additional B-2 bombers that the Pentagon doesn’t want and the Nation doesn’t need.

At a time when we are imposing new burdens on education, it makes no sense to confer excessive subsidies on oil and gas companies.

At a time when we are cutting benefits for the disabled, it makes no sense to continue unneeded subsidies for major companies to market their goods overseas.

Our current amendment will end these and several other forms of corporate welfare. It also calls for a base-closing type Federal Commission to deal with this equally flagrant type of corporate welfare—the lavish Federal subsidies dispensed to wealthy individual and corporations through the Tax Code.

Over the next 7 years, these tax subsidies will cost the Treasury a total of $4.5 trillion. Yet they undergo no analysis, no consideration of the appropriations process or during reauthorization. Once enacted, they can go on forever, with no effective oversight by Congress.

As time is limited on debate, I offer these insights as offered by these groups. The Cato Institute says:

Corporate welfare is an enormous drain on the Federal Treasury for little economic benefit.

The Progressive Policy Institute says:

The President and Congress can break the (budget) impasse and substantially reduce spending and put us in a position where they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize inefficient industries.

I reserve my 1 minute.
The amendment we are proposing will examine all existing tax subsidies and make recommendations to Congress on the way to cut spending and avoid a budget bill to cut programs and assist for the most needy in our society. I am opposed to passing up an opportunity to cut billions of dollars from programs like the B-2 bomber, and oil and gas subsidies.

At a time when so many individuals and families are being asked to bear a heavy burden of budget cuts, there should be no free rides for special interest groups and their cozy subsidies.

Mr. KOHL. Mr. President. I rise in reluctant support of the amendment from the Senator from Arizona to cut spending from 12 programs.

I am supporting the amendment because, at a time when we are debating a budget bill to cut programs and assistance for the most needy in our society, we have to pass up an opportunity to cut billions of dollars from programs like the B-2 bomber, and oil and gas subsidies.

However, while I will support this amendment, I am extremely unhappy with the decision by the proponents of this amendment to cut loan programs for rural electric cooperatives, who depend on those funds to keep utility rates reasonable for rural residents.

I am also unhappy with the choice of the proponents of this amendment to eliminate the Market Promotion Program, on the heels of the successful effort to eliminate the corporate subsidies from that program, and target it toward small businesses and cooperatives.

So while I must reluctantly vote in support of this amendment so to cut bil- lions of dollars, I do not think doing so helps us any. We should work to have the Rural Utility Service loans and the Market Promotion Program restored in conference.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, this amendment has very broad jurisdictional problems with a whole series of committees. It is the opinion of this Senator that probably the primary committee of jurisdiction would again be the Finance Committee. Therefore, I will yield to a member of the Finance Committee, the Senator from West Virginia, for remarks to be included in our record.

Mr. ROCKEFELLER. Mr. President. I appreciate the action of the ranking member of the Budget Committee. Our amendment which we have not yet—let me say first of all, it will be my hope that our side will not take a position on this, because we are simply unaware of what it is. In fact, it appears to me to be a 'yes' or 'no' vote by the Senate and the House. I commend Senator MCCAIN and our other colleagues for their work on this important issue, and I am hopeful that the Senate will approve our amendment, our action in this legislation is part of a longer-term initiative to insist on congressional scrutiny of all Federal subsidies.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. EXON. Mr. President, following up the inquiry that was made just a few moments ago by the chairman of the committee, I would also presume we have not made up our minds on this side of the aisle on this amendment. I also assume that, without taking action now, it would not preclude us from making a point of order which might lie against this amendment at some future date. Before the vote is taken, is that correct?

The PRESIDING OFFICER. The point of order can be made when the amendment comes up again.

Mr. EXON. Does Senator MCCAIN have any additional time?

The PRESIDING OFFICER. The Senator has 31 seconds.

Mr. MCCAIN addressed the Chair.

Mr. MCDONALD. Does Senator MCCAIN have any additional time?

The PRESIDING OFFICER. The Senator has 31 seconds.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the benefit of the Senator from West Virginia, we did distribute this amendment much earlier today. I am sorry he did not get it.

Also, I would like to point out that Senators FEINGOLD, KERRY, and KENNEDY are also cosponsors of this amendment. So some Members on this side of the aisle obviously are aware of it.

At the same time, I am also aware that a budget point of order can be lodged against this amendment, and I do not expect it to pass. Mr. President, I am being very frank. But I will tell you what. We are going to be on record as to what we support and what we do not support in the way of corporate pork and whether we are really willing to make the sacrifices necessary to reduce this unconscionable debt of $187,000 per child in America while we support corporations all over America with taxpayers' dollars.

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

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

Mr. ROCKEFELLER. In responding to the Senator from Arizona and what I am sure is a very good-faith—I know it is a very good-faith effort, if Senators FEINGOLD, KENNEDY and others are in fact cosponsors of it, one would never know by looking at the amendment because only the name of the Senator from Arizona is listed. And this is part of what I am talking about. If we are going to make serious decisions about the enormous variety of programs, we have to do this in some kind of more intelligent way. Now, the rules may preclude us from doing that because the agreement has already been made, but this is many things to many people.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time expired?

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

The PRESIDING OFFICER. The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska has 30 seconds.

Mr. EXON. Reserving the right to object, the yeas and nays are being requested. Again, I want to make it clear that I would not preclude us from making a point of order before the vote is taken. That is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. Thank you, Mr. Chairman.

Mr. DOMENICI. I thank the Senator from Arizona. We imposed on him this afternoon, having called down and you were not ready, and I apologize for that.

Mr. McCAIN. Is it appropriate for the Senator from Nebraska to make a
modernized our Federal Aid Highway Program by targeting available resources on the most critical needs. The bill before us would rescind $712 million for certain highway projects funded in ISTEA and previous appropriation acts. This represents a substantial retreat from the commitments made in ISTEA and in those appropriations acts.

Mr. President, my amendment will restore full funding for these important highway projects in 48 States. By rescinding these Federal funds, the bill before us would require States to cough up an additional $712 million for these projects. In effect, this would cause States to have to increase their matching share from 20 percent to as much as 32 percent in order to complete these projects.

Currently, the Department of Defense shows a total unobligated balance in excess of $10 billion for ongoing military construction projects, yet no one—no one—suggests that we should rescind 15 percent of these unobligated balances in defense and thereby ensure that these projects cannot be completed.

If we seek to reduce our Federal budget deficit by worsening our investment deficit in our Nation's infrastructure, we will have done absolutely nothing to improve our national prosperity. We will only dig our Nation into a deeper hole characterized by excessively congested and deteriorating roads and bridges.

According to the Department of Transportation, there are currently more than 234,000 miles of nonlocal roads across the Nation which require improvements immediately or within the next 5 years. Additionally, 118,000 of the Nation's 575,000 bridges, more than one in five, are structurally deficient. Our current highway capacity is being stretched beyond its limits, and what is our response at the Federal level? Just as is the case with our Federal budget deficit, we are leaving the mess to our grandchildren.

To fully offset the effects of the restoration of these critical highway projects, my amendment includes a modification to section 12803 of the reconciliation bill which phases out the tax deductions presently allowed for the interest paid on company-owned life insurance policies over the period 1995 to 2001. Contractors of America. the Associated General Contractors of America.

Mr. President, let me just read a few of those States that lose money. Alabama will lose $12.8 million; Arizona, $2.8 million; Arkansas, $31.5 million; California, $43.8 million; Connecticut, $5 million; Florida, $27.9 million; Georgia, $10.8 million; Hawaii, $3 million; Idaho, $8 million; Illinois, $29 million; Indiana, $8 million; Iowa, $9 million; Kansas, $9 million; Kentucky, $4.6 million; Louisiana, $13.6 million; Maine, $10.8 million; Maryland, $12.8 million; Michigan, $23 million; Minnesota, $23.5 million; Mississippi, $2.9 million; Missouri, $9.3 million; Montana, $3 million; Nebraska, $2.8 million; Nevada, $5.8 million; New Hampshire, $5.8 million; New Jersey, $29.3 million; New York, $40 million—

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. Mr. President, I have on each desk the table of the amount that the various States would lose. I ask unanimous consent that this table, along with three letters in support of my amendment, be printed in the RECORD. I urge adoption of the amendment.

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

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<th>Appropriated 1992</th>
<th>1993 act</th>
<th>Estimated Fiscal Year</th>
<th>Total</th>
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HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT
ARTBA's nationwide membership is involved in every aspect of highway construction, financing and operation of all forms of transportation facilities. It includes contractors, engineers and planners, equipment manufacturers, materials suppliers, public officials, financial institutions and educators. Again, we urge you to support Senator Byrd's amendment to S. 1357.

Sincerely,

T. PETER RUANE, President & CEO.


Hon. ROBERT C. BYRD, U.S. Senator, Washington, DC.

DEAR SENATOR BYRD: I am writing to indicate the support of the American Trucking Associations for your efforts to restore $712 million in badly needed highway funding. A Department of Transportation report estimated that the backlog of highway and bridge needs in the United States was in excess of $230 billion. The conference report on the FY '96 Department of Transportation Appropriations bill (H.R. 2002) recognizes this problem by increasing highway funding. Your efforts to restore that funding is in line with the priorities set out in H.R. 2002.

We support your amendment to S. 1357, the Budget Reconciliation Act, and urge your Senate colleagues to approve this amendment.

Sincerely yours,

TIMOTHY P. LYNCH, Executive Director, Congressional Relations.

The Associated General Contractors of America, Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD, U.S. Senator, Washington, DC.

DEAR SENATOR BYRD: The 33,000 members of the Associated General Contractors of America strongly support your amendment to S. 1357 that will restore much needed funding for highway projects.

Your recognition of the problems that the existing provision (section 6002) will cause the highway program are greatly appreciated. As you are so keenly aware, your amendment restores $715 million in highway funding for 48 states (only Alaska and Delaware escape the cuts included in Section 6002). Elimination of this funding mechanism will simply delay needed construction and cost as many as 30,000 jobs.

In addition to eliminating current funding for projects (many of which are under construction) that have been previously approved by both the House and Senate. Section 6002 also sets a bad precedent by diverting highway trust fund money to offset the general fund deficit and will adversely impact the baseline for highway funding which could lower the amount of resources made available for critical highway construction in the future.

Thank you for your continued vigilance in ensuring adequate investment in the Nation's Surface Transportation Programs.

Sincerely,

STEPHEN E. SANDERR, Executive Director, Congressional Relations.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President. I was not privy to drafting the provisions in the Finance Committee, and from the Environment and Public Works Committee. I wonder if Senator CHAFEE might take half my time and explain this as he sees it.

Mr. CHAFEE. Mr. President, this provision that is referred to as a loophole was entirely legal over the years that it was enforced, and in the Finance Committee, after considerable work of roads intended to be the nation's commercial movement. Congress in addition to a large proportion of its construction, financing and operation of all forms of transportation facilities. It includes contractors, engineers and planners, equipment manufacturers, materials suppliers, public officials, financial institutions and educators. Again, we urge you to support Senator Byrd's amendment to S. 1357 now before the Senate would reduce funding for highways by $522 million in fiscal year 1996 and an additional $185 million in fiscal year 1997. The 4,000 members of the American Road & Transportation Builders Association (ARTBA) strongly urge that you vote for this amendment to S. 1357 to be offered by Sen. Robert C. Byrd that would preserve existing funding levels.

Cutting highway funding at this time would be in conflict with the conference report on the fiscal 1996 transportation appropriations bill (H.R. 2002). That measure reflects the importance of highways to the country by increasing funding for their improvement. The federal highway program was, in fact, the only mode to receive a high funding level than in fiscal 1995.

According to the Federal Highway Administration, America's highways provide 88 percent of the nation's personal transportation in addition to a large proportion of its commerce movement. Congress is expected shortly to approve designation of the national Highway System: a 159,000-mile network of roads intended to be the nation's back‐bone transportation system and the focus of federal highway investment in the years ahead. Clearly, this is no time to cutting already inadequate funding for highway investments. Furthermore, most of the proposed reduction is for activities supported by the Highway Trust Fund, a pay-as-you-go financing system supported by user fees. The sought budget savings can be found in other areas less crucial to this country's future.

To address the Chair.

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October 26, 1995

CONGRESSIONAL RECORD — SENATE

S 15805

negotiation in what we are doing in retroactively repealing something. If you would, the belief was that doing it over 5 years was a fair method of proceeding. And the belief was that to do it in 4 years—a very abbreviated time—was just not fair. So, Mr. President, this is an intricate, complicated system, and a complicated piece of legislation. But we felt in the Finance Committee that indeed there was considerable pressure to give a longer time to phase it out. But we arrived at 5 years thinking that was a fair way of doing it, and the 4 years just does pose a severe problem and difficulty upon those who chose to use this type of company-owned life insurance policies. So, Mr. President, that was the rationale for going to the 5 years.

Mr. BYRD. Would the Senator yield?

Mr. CHAFEE. Yes.

Mr. BYRD. Mr. President. the House phases it out in 4 years. The Senate phases it out in 5 years. So either way it gets phased out, we suggest we phase it out in 4 years, and apply that money to these infrastructure projects in 48 States of the country. Let us cast a vote for America and the future of America.

Mr. CHAFEE. Mr. President, I do not want to look at this in terms of whether we are voting for America or not. People would not want to stand up here and suggest they were not voting for America. I suspect they believe the amendments are for America.

What I am saying, Mr. President, is that we are doing something retroactively. And it was our belief that 5 years was the fair way. Now, I suppose you could do it in 1 year. But that does not make it any fairer. So, Mr. President, that was the basis on which we did the 5 years in the Finance Committee.

Mr. DOMENICI addressed the Chair.

How much time do I have remaining?

The PRESIDING OFFICER. Two minutes and 20 seconds.

Mr. DOMENICI. Addressed the Chair, Mr. President. I would just make a couple of quick points. Senator BYRD knows that I have great respect for him and I am fully aware of his constant and persistent desire that we spend money on infrastructure. But I think the only possible way, assuming it is not subject to a point of order, that this amendment should be adopted is if the U.S. Senate thinks the infrastructure highway projects were a good thing.

The demonstration highway projects did not treat all States equally. As a matter of fact, by being demonstration projects, some States got a lot more than others. So the distinguished Senator is now looking at that and saying some States would lose and some States would gain, but this is not a formula where everyone was allowed demonstration highway projects. This is a nonformula.

The demonstrations were established by committee or by appropriation or in that way. And anybody interested in whether this is a fair distribution among our States can just look at the list which I do not choose to read here tonight, but there are some very disproportionate turns of money to certain States and very little to other States that should have the same amount on population and highways. But the demonstrations were not set out in any fair way in the beginning. So if you think the highway demonstration programs were great, then obviously you ought to put them back in here whereas the committee decided that they did not think they ought to be in and we ought to save money. So that is the measure that is there. That is if it is not subject to a point of order. And the reason I say ‘if,’ my instinct tells me it is, but then I think of who offered it, and I am quite sure he made sure it was not subject to a point of order.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOMENICI. Yes.

Mr. BYRD. If we do not adopt this amendment, then we are retroactively wiping out those infrastructure projects in 48 States of this country. I hope the Senate will adopt the amendment. I did not mention Pennsylvania. $111 million; Ohio, $22 million; Texas, $21 million; Virginia, $14 million; West Virginia, $6 million. I have only read some of them.

Mr. DOMENICI. The Senator mentioned West Virginia?

Mr. BYRD. I mentioned West Virginia.

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

Mr. DOMENICI. I am not going to ask for the yeas and nays or move to table. I will wait for the vote, the time that it comes up.

Senator CHAFEE, I believe, is the next one.

Does the Senate have a copy of Senator CHAFEE’s amendment?

Mr. EXON. We do. I might say at this time: following Senator CHAFEE’s presentation, I will yield my 5 minutes, and I will yield the jurisdiction of the Finance Committee, to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia?

Mr. CHAFEE. Mr. President, I ask that the Chair would be good enough to tell me when I have used 3 minutes.

As I understand it, we have 5 minutes on our side. The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. If the Chair could tell me at the end of 3 minutes, I would appreciate it.

The PRESIDING OFFICER. If the Senator is offering an amendment, he needs to send it to the desk.

AMENDMENT NO. 2973

(Purpose: To provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) and to make medical assistance under section 1902(d) as in effect on the day before the date of enactment of this Act; and)

Mr. CHAFEE. Mr. President, I am offering this amendment on behalf of Senator CONRAD as an insurance package. It does, it guarantees Medicaid eligibility for low-income individuals with disabilities. Under the language reported by the Senate Finance Committee, States are required to provide coverage to persons with disabilities.

However, and here is the hitch—the States are given complete latitude in establishing the definition of who is disabled. It could be only those who are quadriplegics who are blind and are considered disabled. I mean, they can have any definition the States wish. What our amendment does is it sets a minimum standard by requiring States to provide coverage to children and adults with disabilities who receive benefits under the Supplemental Security Income Program [SSI].

But here are the important words. the SSI Program, as amended by the welfare reform bill which we passed here a month or so ago, we passed here by a vote of 87 to 12. So this is a very restricted group. This is not the SSI group that we worry about that individual substance abuse, for example. That is not in this category. Only the neediest individuals qualify for SSI. They all have incomes below the poverty level and indeed currently they have to—they cannot be above 150 percent of the poverty level and qualify. Now, this is a pretty low-income group.

Why is this amendment important? Without this requirement, States will have the ability to exclude from coverage groups of individuals who depend on this Medicaid coverage as their only source of health insurance coverage. There is no place else they can go. You say get private insurance. Well, they first cannot afford it. And second, they all have preexisting conditions, and so therefore would not be qualified.

Mr. President, there is no mandated benefit package in the proposal. These are the facts. We do not mandate a benefit package. We leave that up to the States. All we are saying is, you have to cover this group. And how do you describe this group? You describe them...
by the SSI description as we had it in the welfare program. So, indeed, with no minimum package the States could say, ‘For this group there will be one aspirin a year.’ That could be done. But at least you have to cover everybody in the group with whatever the benefit package is.

Mr. President, I think it is very important to remember that we are giving the States, over the next 7 years, $800 billion-$800 billion. Mr. President. And they are going to receive their allocations based on the fact of those who were covered in 1985, and in the group that they covered in which they got their money are these disabled. So. Mr. President. these are a very, very low-income group in our society. They are being cared for very frequently by their parents and others, kept in the community. And without this safety net they would have to in many cases become institutionalized at a far higher cost. I hope my colleagues will join me in passing this critical safety net. I yield time to Senator CONRAD.

Mr. CONRAD. Mr. President. I am proud to join Senator CHAFEE in offering this amendment. Mr. President, simply put, this provides health care support to the most severely disabled individuals in our society. Senator CHAFEE and I received a letter of support from the Consortium for Citizens With Disabilities, 30 national organizations that work to support the disabled. It said:

We believe that your amendment to establish a minimum floor of eligibility for children and adults with disabilities is a fundamental component of ensuring a basic safety net for low-income people with severe disabilities.

Mr. President, health care is not an option for these people. It is a necessity. And I have it today. They should not be at risk for losing it tomorrow.

During Finance Committee deliberation, we received this communication. It said:

Mr. Senator, if you are a person with mental health services are not available. Remember, this is a lifelong condition which cannot be cured like substance abuse or unemployment. Also, remember, it is not a self-inflicted condition, but rather one that a person is born with.

Mr. President. States should not cut severely disabled people from Medicaid. That is the premise of this amendment. I hope our colleagues will support it.

Mr. ROCKFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKFELLER. Mr. President, first. I want to compliment the Senator from Rhode Island, because actually it was the Senator from Rhode Island and myself in the Finance Committee who put this amendment, which won 17 to 3, and then it sort of disappeared. It particularly disappeared with respect to the disabled. It should be understood the Senator is entirely correct in his amendment, and I urge my colleagues to support his amendment.

On the other hand, it is also important to understand that by voting for this amendment that we are not going to be making a prince out of a fee that the underlying Medicaid bill which encompasses this amendment is. in the judgment of this Senator. a disaster.

This amendment will help. I do not want to go in any way diminish that. This is pregnant women, children. and the disabled. and it is a guarantee. The guarantee was not there before.

The Senator is right when he says the States have to make a determination under the current law what ‘disabled’ means. Good heavens, 50 different definitions coming in on ‘disabled.’

The point is. it is a good amendment in a bad bill. The States will still lose 30 percent of their Medicaid funding. In the case of my State, it is a little more than that. On nursing home protection, Federal standards are wiped out. That really wakes up the specter, and some say, ‘Well, you are just making a fuss over this.’ What a fuss. The standards we passed in 1987 by which you could no longer tether. that is tie down. an elderly person in a nursing home or drug into passivity an elderly person, is wiped out. So that is now possible under the underlying bill.

These are terrible things. Children with primary care needs, early detection, early immunization—it is not a good bill. But the amendment is good and the Senator from Rhode Island has suggested an amendment that ought to be adopted.

So I just simply make that point and compliment the Senator significantly for now getting the word ‘guaranteed’ coverage into the legislation. I compliment him on that and urge my colleagues to support the Senator’s amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time been used on the amendment? The PRESIDING OFFICER. The Senator from Nebraska controls 1 minute, 50 seconds.

Mr. CHAFEE. Mr. President, if I could have just a portion of that. Mr. EXON. I will be glad to yield half of it to my colleague.

Mr. DOMENICI. Mr. President. I want to compliment the Senator from Nebraska. My amendment. I do not choose to speak in opposition. Does any Senator want to speak in opposition? I would like to do is take my 5 minutes and I would like to yield 2 minutes of that to Senator COHEN. He can speak in favor of it.

The PRESIDING OFFICER. Ten minutes has expired.

Mr. DOMENICI. Mr. President. I ask unanimous consent that the Senator have 2 minutes to speak in favor of it.

The PRESIDING OFFICER. The manager is entitled to 5 minutes in opposition. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President. I thank my friend. I rise in support of the Chair. The Senator CHAFEE has tried valiantly to include the poorest of the poor. In our system, and for anyone to object to having the disabled included—I might say, it does not go far enough perhaps, because as I understand the Senator’s amendment. it includes pregnant women and children and does not include elderly. it includes disabled but it leaves it up to the States to define what ‘disabled’ is.

I know the Senator was eager to use the SSI determination for ‘disabled.’ Is that the Senator’s amendment? Mr. CHAFEE. That is right. It has already been adopted. Pregnant women and children up to the age of 12 and 100
(B) ADJUSTED GROSS INCOME LIMITATION—The aggregate amount of the credit which would but for subsection (b) be allowed by subsection (a) shall be reduced (but not below zero) by 20 percent for each $3,000 by which the taxpayer’s adjusted gross income exceeds $50,000.

(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit authorized by subsection (a) is reduced (but not below zero) by 20 percent for each $3,000 of the tax imposed by sections 3101 and 3201 (a) which would be allowable against such tax other than the credit allowed for such taxable year (reduced by the credits allowable under section 32).

(3) ALLOWANCE OF CREDIT.—(A) the tax imposed by this subtitle for the taxable year; (B) the taxes imposed by sections 3101 and 3201 (a) and 30 percent of the taxes imposed by sections 1401 and 3211 (a) for such taxable year.

(4) LIMITATION BASED ON ACCOUNT OF TAX.—(A) the tax imposed by this subtitle for the taxable year and (B) the taxes imposed by sections 3101 and 3201 (a) and 30 percent of the taxes imposed by sections 1401 and 3211 (a) for such taxable year.

(5) ALLOCATION OF CREDIT.—(A) The taxpayer is allowed a deduction under section 164(a) with respect to such individual for such taxable year.

(6) EXCEPTION FOR CERTAIN NONCITIZENS.—The term ‘qualifying child’ means any individual if—

(A) the taxpayer is allowed a deduction under section 164(a) with respect to such individual for such taxable year.

(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

(C) such individual bears a relationship to the taxpayer described in section 152(b)(1) (determined without regard to clause (i) thereof).

(7) CREDIT ALLOWED FOR CHILD TAX CREDIT.—The term ‘qualifying child’ means any individual if—

(A) the taxpayer is allowed a deduction under section 164(a) with respect to such individual for such taxable year.

(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

(C) such individual bears a relationship to the taxpayer described in section 152(b)(1) (determined without regard to clause (i) thereof).
but it goes up to the same amount, $75,000, that the original Republican proposal did. Just by making it refundable against the payroll tax—

THE PRESIDING OFFICER. The time of the Senate has expired.

Mr. DOMENICI. Mr. President, I yield 2½ minutes to the Senator from Louisiana.

Mr. GRAMS. Mr. President, first let me say that I agree with the Senator from Louisiana in wanting to make this tax cut refundable against the FICA or payroll tax, because I argued many months and many times that we should do this and expand the tax credit, because FICA is one of the most regressive.

But this is not the way to do it. This is not the way to pit one group of hard-working, tax-paying families against another group of families that struggle every day to try and make ends meet, to choose between, for his or her family.

Nearly 75 percent of the tax credits in the Republican plan go to families making under $75,000 a year, those hard-working families who have been asked to pay.

This is the real crux of the argument: They have been asked to pay more of their income to Federal taxes every year, year after year. Our plan does target low-income families with increases in the EITC credit, already giving $24 billion this year, growing to $30 billion, and in the next year, $40 billion plus. So those families are seeing an increase in their earned-income tax credit. They are getting tax relief or more money in their pockets.

But who is forgotten? The families forgotten are those making between $30,000 and $75,000 a year. They are forgotten in the program. They do not get the benefits here. Yet, they are remembered one day of the year—tax day—when they are asked to spend more and more of their money. I would ask the Senator from Louisiana to try and define ways to shrink the size of the Federal Government, to save additional moneys, to be able to expand even farther the tax credits, to give more persons tax relief. But let us not pit one group who are asked to pay and pay, and pay more of their income, as well as their FICA. Their FICA taxes are also being deducted.

Let us give them credits and not pit one against the other. Let us not take money from the taxpayers. Let us work to shrink the size of the Government and give more Americans more of their money back in the form of tax credits. I would like to work with the Senator from Louisiana in doing that. But I do not support this, and I urge my colleagues on the amendment, Mr. Breaux. Will the Senator from New Mexico yield me 60 seconds? I do not think I have any time left.

Mr. BREAUX. The PRESIDING OFFICER. The Senator from Louisiana has used his time. The Senator from New Mexico has 2 minutes 30 seconds.

Mr. DOMENICI. Mr. President. I rise in opposition to the amendment. First of all, everybody should know this amendment starts phasing out the child tax credit at $60,000. The credit that we have in the Senate bill, when coupled with the earned-income tax credit, achieves the same goal as the Breaux amendment. It relieves the lower-income folks of the payroll burden. His would be to the contrary. The child credit and EIC is already in excess of the family’s Federal payroll taxes. The employee and the employer share for families living at or near the poverty line. A family earning under $12,500, with two children, and families with earnings under $15,500 will have the same effect under our bill. Yet, we will be able to cover more Americans because we do not stop it at $60,000.

So I do not believe we ought to do this. Frankly, I am not a great fan of refundable anything because I believe they are rampant with fraud. We just got through with the EITC and it is about 25 percent fraudulent because we are giving people a check back as a refundable tax credit. Some may be for that. I do not think it is a very good policy. The same thing will happen to this one if we do it this way.

Mr. GRAMS. If the Senator will yield, the Senator from Louisiana said more children would be covered. Actually, under his bill, because he would limit this to $15,000 and not $75,000, this would cover fewer children and not more. So I think the whole crux of this plan is to give tax relief for families.

Mr. DOMENICI. Mr. President, in closing, I do not believe we ought to stop at $40,000. It is 15 years of age. I have been through it all, and that is about the time they start to get really expensive. There we are stopping it just about at that time, while in our bill we add two more years, which is much better in terms of really helping middle income families when they need it the most.

Mr. ABRAHAM. Mr. President, I will vote against the Breaux amendment. Although I have expressed support for making the $500-per-child tax credit refundable against the FICA tax, this amendment is the wrong way to achieve this objective. First, it dramatically reduces the $550 credit for many middle-class families. Second, it limits the number of children who would qualify for the credit.

For families earning between $50,000 and $75,000, this amendment would unfairly prevent them from receiving the $500 child tax credit.

It is my hope that FICA refundability will be raised during conference and that a solution will be adopted which will provide muchneeded tax relief to all American families.

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

Mr. DOMENICI. The PRESIDING OFFICER. Is there a sufficient second?

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

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

The PRESIDING OFFICER. Is there a sufficient second?

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

Mr. DOMENICI. I think it comes to our side. Senator Bond is next.

Mr. EXON. When Senator Bond finishes, I wish to yield the 5 minutes on our side to the direction of the Senator from Arkansas.

AMENDMENT NO. 2975

(Purpose: To increase the health insurance deduction for self-employed individuals and to strike the long-term care insurance provision)

Mr. BOND. Mr. President, I thank my good friend and eminent leader of the Budget Committee for this time. I send an amendment to the desk on behalf of myself and Senator Pryor and ask for its immediate consideration.

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. Bond, for himself and Mr. Pryor, proposes an amendment numbered 2975]

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

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

The amendment is as follows:

On page 1553, beginning with line 13, strike all through page 1558, line 24, and insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

(a) INCREASE IN DEDUCTION.—Section 162(a) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. There is a great injustice in our tax law, an injustice that I suspect everyone in this body has addressed at some time or another. That is the inequity in the deductibility of health insurance costs.

I do not think I need to tell my colleagues that corporations historically can deduct 100 percent of the health care insurance premium that they pay for employees, and the employees do not have to declare any of the employer-paid health insurance premiums as income. At the same time, the self-
employed farmers, the small business men and women of this country cannot deduct more than 30 percent.

This body took a great step forward earlier this year when we reinstated for last year the 25-percent deduction and increased that to 30 percent. Frankly, that is not enough.

I am proud to chair the Small Business Committee. I have heard from small businesses in my State and across the country who are concerned, and greatly concerned, rightfully so, about health care costs.

The occupant of the chair and I know, because we have worked on health care issues over recent years, one of the biggest problems we face are those who are uninsured, because they are limited to a 30-percent deduction as self-employed people for health care insurance premiums.

Under the amendment that I am offering today with Senator Pryor, we will increase the deduction for self-employed to 60 percent next year. 60 percent the following year, and then in the year 1998, increase that to 100 percent. Mr. President, I believe that is the way to achieve equity and ensure that more of the self-employed are insured.

The offset to this provision—we seek to offset by taking out the new program for long-term care insurance included in the Finance Committee markup. I think it is a good idea down the road, or perhaps even before we complete work on this bill, to start providing some incentives for long-term insurance. I think it makes a great deal of sense. I think first we have to address the basic inequity.

I reserve the remainder of my time.

Mr. Pryor. Mr. President, I thank my distinguished colleague from Arkansas who has been a champion of this deduction for a long time. It is a pleasure to work with him on this amendment.

I want to advise my colleagues that we have received strong letters of support from a whole host of organizations—agriculture and small business, including the Farm Bureau Federation; ABC, Chamber of Commerce; H.E.A.L., Association for Self-Employed; Association of Home Builders; Cattlemen's Association; National Retail Federation; Small Business Legislative Council; Society of American Florists.

Mr. President, I thank the distinguished manager, Senator Exon of Nebraska, for giving me the opportunity to address this issue.

We know that in the spring the Congress passed and the President signed into law H.R. 831. This was a bill to restore the 25-percent health care deduction for the self-employed and for the farmers of America. As my colleagues may remember, Mr. President, this deduction had expired and the self-employed were receiving absolutely no health care deduction at all for a period of time, it was an absurd position, a positive step for small business and for the family farm.

H.R. 831 also increased the deduction for 30 percent for 1995 and for all years in the future. It was a very good step, a positive step for small business and for the family farm.

I was proud, by the way, to join Senator Roth and Senator BOND and others in writing to our colleagues who promised not to offer us any amendment on the floor. It was a strong statement, but we underscored our recognition of the importance of the health care deduction for the self-employed.

Last week when the tax bill came before the Senate Finance Committee, I was disappointed that the chairman's markup did not include any progress on the deduction front. I offered an amendment to increase this deduction to 50 percent—from 30 percent to 50 percent. I was further disappointed when this amendment failed on a party-line vote.

I am very proud to join with Senator Bond this evening in support of the Senate amendment to increase the self-employed deduction not to 50 percent, Mr. President, but to 100 percent. There is where it should be, and that is where our amendment will go.

It is an issue of parity. It is an issue of increasing coverage for small business and for farmers, for making insurance more affordable. It would move the 30-percent rate to 60 percent in 1996 for deduction. In 1997, it would continue at 60 percent. By 1998, Mr. President, we would have a 100-percent deduction for small businesses, for the self-employed, and for the farm families of America. I think it would do more to make small business more affordable and to provide insurance for many, many more millions of Americans that have labored under a very inequitable situation.

I reserve the remainder of my time.

Mr. Bond. Mr. President, I thank my distinguished colleague from Arkansas, who has been a champion of this deduction for a long time. It is a pleasure to work with him on this amendment.

I want to assure my colleagues that we have received strong letters of support from a whole host of organizations—agriculture and small business, including the Farm Bureau Federation; ABC; Chamber of Commerce; H.E.A.L.; Association for Self-Employed; Association of Home Builders; Cattlemen's Association; National Retail Federation; Small Business Legislative Council; Society of American Florists.

I ask unanimous consent this bill be printed in the RECORD.

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

SUPPORT THE BOND/PRYOR AMENDMENT

Hon. Christopher Bond.
Chairman, Committee on Small Business.
Washington, DC.

DEAR SENATOR BOND: We, the undersigned organizations, support your and Senator Pryor's amendment to increase health insurance deductibility for the self-employed.

For years, large corporations have been deducting 100 percent of the cost of their health insurance while self-employed business owners like sole proprietors, Subchapter S Corporation shareholders can now deduct 30 percent—which was just increased five percent this year. This is simply unfair and must be corrected.

We believe that before the Congress authorizes a costly, new deduction for any other kind of health care benefit self-employed small business farmers should get 100 percent health insurance deductibility.

Thank you for your leadership on behalf of the self-employed. We look forward to working with you to pass this important amendment.
American Gear Manufacturers Association.
American Road, Transportation Builders Association.
American Society of Interior Designers.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Trucking Associations Inc.
American Warehouse Association.
AMT—The Association of Manufacturing Technologists.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Automotive Warehouse Distributors Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Christian Booksellers Association.
Cincinnati Sign Supplies/Lamb and Co., Inc.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florida Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggist.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Chimney Sweep Guild.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Knitwear & Sportswear Association.
National Moving and Storage Association.
National Paper Box Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
NATSO, Inc.
Opticians Association of America.
Organization for the Protection and Advancement of Independent Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of America Florists.
Turfgrass Producers International.

S 15810

CONGRESSIONAL RECORD — SENATE
October 26, 1995

As you know, the Chamber has long maintained that the self-employed and unincorporated small businesses should receive the same tax treatment currently available to corporations. Sound tax policy dictates full deductibility of premium of self-insurance cost as ordinary and necessary business expenses. There is no valid tax policy reason for treating the smallest businesses any differently. It is vitally important to the nation’s economic security that the smallest businesses, frequently new and often struggling, be granted a measure of security equal to that of larger corporations.

Once again, the Chamber appreciates your work on behalf of our nation’s small businesses and looks forward to working with you towards resolving this issue. The inability of the nation’s smallest businesses to deduct the full cost of their health insurance, and the inequity in being denied an advantage granted to their incorporated fellows, has been a thorn in the side of small business and the self-employed for years. It is time that thorn is removed and equality is restored.

Sincerely,

R. BRUCE JOSTEN
PROMOTIONAL PRODUCTS ASSOCIATION INTERNATIONAL,

DEAR MR. CHAIRMAN: On behalf of the Promotional Products Association International (PPA), I wish to express our support for your amendment to increase the deduction the self-employed may take for their own health care costs.

Under current law, they may deduct only 30 percent of their employer-provided health insurance. The current deduction was only recently made permanent. For the millions of sole proprietors, partners, and S Corporation shareholders, including PPA members, this is an unfair penalty with no sound basis in tax policy.

The current policy dates back to another era in tax policy, when business entities such as sole proprietorships were viewed with great suspicion. Now, decades later, economic and social policy has evolved to the point where we find more and more individuals opting to structure their small business in such a fashion. These small businesses are an increasingly important source of strength in our economy.

It is time to give them the same opportunity to deduct their health care costs as any other business.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise, printed with the advertiser’s name, logo, or message. Our industry sales are over $6 billion and PPA members are manufacturers and distributors of such goods and services.

Sincerely,

H. TED OLSON, MAS
President.

DEAR CHAIRMAN BOND: It is my understanding that you intend to offer an amendment during the budget debate that would raise the health insurance deduction for the self-employed from the current 30 percent level to 100 percent of their premium payments. On behalf of the National Association for the Self-Employed, I completely support your efforts.

Raising this deduction level would create tax equity between corporate America and small business. Currently, large businesses can deduct 100 percent of the premiums they pay on behalf of their employees for health insurance coverage. The self-employed can only deduct 30 percent of their costs. And the self-employed who pay for their own insurance are primarily paying with after-tax dollars, effectively making the policies more expensive. On behalf of the National Association for the Self-Employed, I completely support your efforts.

Raising this deduction level would create tax equity between corporate America and small business. Currently, large businesses can deduct 100 percent of the premiums they pay on behalf of their employees for health insurance coverage. The self-employed can only deduct 30 percent of their costs. And the self-employed who pay for their own insurance are primarily paying with after-tax dollars, effectively making the policies more expensive.

Also, a 100-percent deduction would give the self-employed the tax equity they deserve. Also, a 100-percent deduction would enable many self-employed to purchase a health insurance policy, a luxury many cannot currently afford. Passing a 100-percent deduction would significantly decrease the number of uninsured individuals in this country.

We have polled our 320,000 self-employed members and 100-percent deductibility of health insurance premiums is the No. 1 issue of concern to them. Please do not hesitate to call on me. I stand ready to assist your efforts in any way I can.

Sincerely,

BENNIE L. THAYER
President/CEO

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Also, a 100-percent deduction would give the self-employed the tax equity they deserve. Also, a 100-percent deduction would enable many self-employed to purchase a health insurance policy, a luxury many cannot currently afford. Passing a 100-percent deduction would significantly decrease the number of uninsured individuals in this country.

We have polled our 320,000 self-employed members and 100-percent deductibility of health insurance premiums is the No. 1 issue of concern to them. Please do not hesitate to call on me. I stand ready to assist your efforts in any way I can.

Sincerely,

BENNIE L. THAYER
President/CEO

DEAR CHAIRMAN BOND: On behalf of the Promotional Products Association International (PPA), I wish to express our support for your amendment to increase the deduction the self-employed may take for their own health care costs.

Under current law, they may deduct only 30 percent of their employer-provided health insurance. The current deduction was only recently made permanent. For the millions of sole proprietors, partners, and S Corporation shareholders, including PPA members, this is an unfair penalty with no sound basis in tax policy.

The current policy dates back to another era in tax policy, when business entities such as sole proprietorships were viewed with great suspicion. Now, decades later, economic and social policy has evolved to the point where we find more and more individuals opting to structure their small business in such a fashion. These small businesses are an increasingly important source of strength in our economy.

It is time to give them the same opportunity to deduct their health care costs as any other business.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise, printed with the advertiser’s name, logo, or message. Our industry sales are over $6 billion and PPA members are manufacturers and distributors of such goods and services.

Sincerely,

H. TED OLSON, MAS
President.

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Sincerely,

H. TED OLSON, MAS
President.
It is unfair to penalize small business owners solely because they elect to do business as a sole proprietorship or S Corporation, yet that is what the current tax code does with respect to their own health care costs.

As you know, for the first time this year, the self-employed can deduct 30 percent of their health care costs. For many years, they were not allowed to deduct even that much. We all know what health care costs these days, and it is simply unfair to impose such a harsh penalty which does not have any sound tax policy justification to support it.

The NHFA represents approximately 2,800 retailers of home furnishings throughout the United States. Thank you for your efforts on our behalf.

Sincerely,

PATRICIA N. BOWLING
Executive Vice President

WORLD FLOOR
COVERING ASSOCIATION
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND.
Chairman, Committee on Small Business, U.S.
Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the World Floor Covering Association (WFC), representing floorcovering retailers throughout the United States, I wish to express our strong support for our amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is about time this inequity in our tax policy was resolved once and for all.

Mr. BOND. Now, Mr. President. I know there are a number of my colleagues who feel very strongly about this. I believe that Senator Dole wants to be recognized in opposition. Mr. Dole. Only in opposition to the long-term care provision. I think in this matter, a lot of the debate in the last 2 or 3 days has been long-term care—Medicare, Medicaid. We are trying to get the younger people involved in the long-term care so that when they arrive at their senior years, they will have long-term care through the private sector. It is something we have worked on in a bipartisan Finance Committee for 2 years. We finally have it in the bill. We believe it is a very good provision.

I do not object to the amendment that is pending. I hope they can find another revenue source. I support what Senator BOND and Senator PRYOR are trying to do. The self-employed should have the same rights as everyone else. The same deduction. I hope that if we can find another revenue source—because I truly believe the long-term care amendment, although this is very important, is just as important, or we will be back here in 10, 15, 20 years. Somebody will be back here wondering why we did not do something to get people interested in buying insurance and getting a deduction.

I hope we can resolve it before we have the vote.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President. we said we had no objection.

The PRESIDING OFFICER. The request is agreed to.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President. I think we were entitled to 5 minutes in opposition, because the other side was and was in favor. But I am just going to take a minute and say I compliment Senator BOND for what he is trying to do. But I too, hope he will find another offset. Because I think he has stumbled on a national debate on Medicare and Medicaid, much of which is long-term care, we have come to the conclusion that the missing link out there is that not many people have long-term care protection.

That is getting to be a bigger and bigger burden of our Government. We are going to be less and less able to do that. It was the same. Moving in the direction of less to happen for people who want to save for themselves and buy insurance and get an appropriate credit. I think to me be very positive. I hope the Senator from Missouri, for whom I have great respect, would agree with that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President. I cannot disagree with a thing my distinguished colleague from New Mexico has said. I had the pleasure of meeting with business men and women in his State. Both of these are important in his State. My State. And I am here to support the provisions of the Finance Committee. I do want to make sure this bill has the deductibility phased in, full deductibility for the self-employed and small businesses. We are most anxious to work cooperatively with colleagues on both sides to accomplish this.

Mr. DOMENICI. I yield back any time I had in opposition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes and 9 seconds.

Mr. PRYOR. Will Senator EXON like some time?

Mr. EXON. I will wait until the Senator finishes.

Mr. PRYOR. Mr. President. just for 1 minute. On many occasions we, all of us, I assume, have gone to town meetings or wherever and said we believe the self-employed. small business, farmers of our country need to have the same rights and same deductibility, especially in purchasing their health care coverage for themselves and their employees. This is exactly what Senator BOND and I am trying to craft tonight. That opportunity. I hope we can give that to these individuals who truly create the jobs in America and who really are deserving of this opportunity to participate in the health care system of America.

I hope we can work out something and I pledge my best efforts to do so.

Mr. EXON. Mr. President. do I have any time remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 1 minute and 15 seconds.

Mr. EXON. I would like to use that 1 minute. if I might. for a brief colloquy between myself and the chairman of the committee. I think we can jointly announce some good news. I think we are moving quite well here. The amendments I have next. that I think are agreed to on the other side—next will be Senator BIDEN, then Senator PHIL GRAMM of Texas, then Senator DORGAN, then Senator KERRY of Massachusetts.

I am pleased with the way we are cooperating on both sides and the fact the Senators are here. prepared to offer their amendments in a timely fashion.

Is that the schedule for the next amendments, in that order?

Mr. DOMENICI. Yes. I would make sure and confirm on our side that when we have done Senator GRAMM of Texas is my calculus. This is we will have had 8 of our 10. still leaving us with 2. If that is everybody's understanding. then I am perfectly in accord. Mr. EXON. It appears to me that is accurate.

Mr. WELSTONE. Will the Senator yield for just a moment? I did not hear the Senator from Nebraska. What was the order of the next 50 minutes. did he say?

Mr. EXON. The next amendments. 10 minutes each, equally divided. The next amendment. the Senator BIDEN followed by Senator SNOWE followed by Senator DORGAN followed by Senator PHIL...
I would like to take a look at what is happening here. Very quickly, in the limited amount of time that I have, this is what has happened since 1980. Public higher education is slipping out of reach of middle-class Americans. And, for too many, it means that more and more young people must borrow more and more money to go to college.

One more statistic—and perhaps the one that boggles my mind the most. Of those who have borrowed under the Federal government's guaranteed student loan program, 22 percent of it has been borrowed in the last 2 years.

Let me say that again. The guarantee student loan program has been cut by 36 percent. And, of all the money borrowed during this time, almost one-fourth of it has been borrowed in just the last 2 years.

We are saddling the next generation with enormous debt before their adult lives even begin. And, I am not talking about the abstract terms of the Federal debt. No, this is saddling the next generation with individual, personal debt.

When today’s college students walk down the aisle at graduation, they are handed not only a diploma, but a big I-O-U. And, for too many, it is either that, or no college at all.

So, I have a very simple proposition. We should give a tax deduction of up to $10,000 per year for the costs of a college education. Under my motion to recommit, this tax deduction would be limited to single taxpayers with incomes under $90,000 and to married couples with incomes under $120,000.

The bottomline is it is getting increasingly difficult for middle-class families, or any family, to send their child to college. So the result is, in 1980, as I said, it took 4.5 percent of the median household income to pay for tuition and fees. I am not talking, now, about room and board. Today it takes 8.4 percent, almost double what it cost to send someone to college. Now, that is almost doubled. It is 8.4 percent. That is for one child.

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education, are taxed to the hilt. Education is treated as consumption, not investment. And as a Nobel Prize economist once put it, the tax code treats machines better than it does people.

It is time for that to change.

From the establishment of the land-grant university system in the late 1800s to the GI bill at the end of World War II to the creation of the PELL Grant and Guaranteed Student Loan programs in the 1960s, the Federal Government has been committed to seeing that young people desiring to go to college would not be turned away because of the cost. It was a national goal to see a college education within reach of every American.

Now, as that goal begins to slip out of reach for many families, it is time to renew our commitment to ensuring access to a college education for all Americans. I urge my colleagues to support this proposal.

I reserve the remainder of my time if I have any.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I regrettably disagree with my friend from Delaware. Actually, to pick out two of the many tax expenditures, that is, two mortgage deductions—that is a very large one—and health insurance and freeze all the rest seems to me totally unreasonable. Let me just go through a couple.

We are freezing pension contributions. That is one of the largest tax expenditures we have, and we think it is fair. Education that employees get from their corporations, you would freeze. Any reduction. The R&D tax credits for American corporations. The one thing they have asked for is that they get to deduct in a special way the research and development costs of their projects. They are going to need help to keep them competitive. Arbitrarily we decide those are all frozen so that we can provide this special tax treatment for those people with children going to college.

Now, we would like to do that. We would like to do a lot of things, but frankly, to take the tax code and say all these other provisions that are good for our country, we just decide to freeze them so we can do that. I think in the fact that we have provided significant assistance to middle-income Americans—in this bill, there is a credit of student loan interest, a credit for 20 percent of the interest paid on the student loan during the tax year if the taxpayer has an adjusted gross income of $40,000 to $50,000 as a single taxpayer; $60,000 to $75,000 as a couple; it is a $3,000 cap on student loan interest for the interest paid in 2013, $1,000 per return—that is pretty fair. With all the other things we are trying to do, it seems to me we ought to do in a more orderly way look at such things as the pension deductions and the expenditures for education that employers give to employees, and many other good tax expenditures that are out there right now working for Americans.

So at the right time, I will move to table the amendment, but for now I yield back the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 53 seconds.

Mr. BIDEN. Mr. President. I know my friend has put a whole flock of kids through college, and so I know his commitment to college.

Let me just say very briefly my amendment restricts the growth of tax expenditures in those areas. It does not in fact freeze them.

No. 2. Tell middle-class taxpayers that R&D is more important for corporations, which I support, than freezing—even if you were to freeze—that is to be able to send their kid to college. Ask the average middle-class American taxpayer what is a better investment. Who is going to do the R&D if we do not get these kids to college?

Lastly, I say to my friend, the $500 cap on student loan interest is worthwhile and is necessary but it does not compare to $10,000 that a middle-class family would be able to deduct. They need help now. They need help now. Mr. President, and this is the most direct and immediate way to do it.

I thank the Chair. I thank my colleagues.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President. I think it returns to our side and Senator SNOWE has an amendment at this time.

The PRESIDING OFFICER. The Senator from Maine.

Mr. EXON. Before Senator SNOWE is recognized, to expedite things, when Senator SNOWE yields half of our 5 minutes to the Senator from West Virginia, who I understand also supports it.

I reserve the other half of the time in case any opposition surfaces. Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I am offering this amendment in conjunction with Senators D’AMATO, SHELBY, BIDEN, MACK, HUTCHISON, and GRAMM that expresses the sense-of-the-Senate that the budget conferees should amend Medicare to provide coverage for breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers.

Back in 1993, when Congress expanded Medicare to help pay for the diagnosis and treatment of breast cancer, gaps in coverage were inadvertently created which denied coverage for certain oral cancer drugs that are of enormous benefit to breast and prostate cancer victims. Currently, Medicare discriminates among breast and prostate cancer victims by providing certain drug treatment coverage for some but not all such cancers.

Let us consider the potential benefit of covering these oral estrogen-based cancer drugs for elderly populations. Breast cancer and prostate cancers are very similar. First, both diseases strike about 200,000 persons annually, and each claims the lives of over 40,000 annually. Medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy.

Budget reconciliation acts of 1993 (OBRA) expanded Medicare to cover self-administered chemotherapy for breast cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form.

Ms. SNOWE. I thank the Chair. I am offering this amendment in conjunction with Senators D’AMATO, SHELBY, BIDEN, MACK, HUTCHISON, and GRAMM that expresses the sense-of-the-Senate that the budget conferees should amend Medicare to provide coverage for breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers.

Ms. SNOWE. Mr. President. I yield half of the time to Senator SNOWE.

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

The PRESIDING OFFICER. The amendment is as follows:

Amendment No. 2976

(Purpose: To express the sense of the Senate regarding the coverage of treatment for breast and prostate cancer under Medicare.)

(a) FINDINGS. The Senate finds that:

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) Medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded Medicare to cover self-administered chemotherapy for breast cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form, and

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and Medicare’s failure to cover oral cancer drugs for hormonal therapy makes the coverage of treatments less effective.

(6) SENSE OF SENATE.—It is the sense of the Senate that Medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend Medicare to provide coverage for breast and prostate cancer victims.

Ms. SNOWE. I thank the Chair.
cancer is increasing to an alarming degree, an expected 90 percent increase between 1983 and the year 2000.

Finally, these diseases are prevalent among women and men whose age makes them eligible for Medicare.

The Congressional Budget Office’s preliminary analysis revealed the coverage of the breast cancer portion of this amendment at a savings of $156 million over 7 years.

So I am asking, Mr. President, that we support this resolution because I think it is the next logical step in fighting both breast cancer and prostate cancer. It does not make sense that we do not provide coverage for the next generation of drug treatment for both prostate and breast cancer treatment. It will save money in the long run under Medicare, and it certainly will make it easier to be administered to those patients, especially those who live in rural areas because it is an oral type of drug rather than having to be administered as an outpatient or in inpatient facilities.

In 1991, Congress made a significant investment under the Medicare provisions for breast cancer screening. It only makes sense then to provide this kind of extensive coverage with the new kinds of drugs that are coming on the market that will be reimbursed under the Medicare system. By denying coverage for treatment to half the population of breast cancer patients, we are not taking full advantage of the investment that Congress has already made.

In 1994 alone, Medicare will have spent an estimated $640 million on breast cancer treatment. Yet, here we find that Medicare will not cover some of the treatments that could be provided for women because they do not reimburse an oral form of drug. In this case, for example, tamoxifen. Tamoxifen is a new drug on the market for the treatment of breast cancers at certain stages and yet because it was not available in intravenous or injectable form, it cannot be reimbursed under the Medicare system because it is an oral drug. I do not think it makes sense. It certainly does not make sense for the future. It does not make sense for the lives and the health of the individuals who are victims of breast or prostate cancer.

So I would urge that the Senate go on record in preventing the recurrence of breast and prostate cancer by advocating that Medicare reimburse for such coverage.

Mr. President, I would ask for the yeas and nays, and I reserve the remainder of my time.

Mr. ROCKEFELLER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. President, I would ask for unanimous consent to include Senator COHEN, of Maine, as a cosponsor.

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

The Senator from West Virginia.

Mr. BENEDR addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes.

Mr. ROCKEFELLER. I yield 10 seconds to the Senator from Delaware.

Mr. BENEDR, Mr. President, I thank the Senator. I wish to thank my colleague from Delaware for her original endorsement of her amendment. I would like to point out two things very quickly.

One, this was an oversight in the first place. It was never intended that this drug should be covered. And No. 2, it is vitally important to the health and safety of millions of Americans. I think it is a good amendment, and I am glad she is introducing it.

Mr. ROCKEFELLER. Mr. President, let me put the amendment. One is, I think this amendment has a virtuous purpose, and I will support it. It is a wish. It is just simply a wish. That is why it is put in the form of a sense of the Senate. We are hoping that the reconciliation that is put on the chopping block. These are huge, huge cuts that are going to be made in the next 7 years—of our time. I yield 5 minutes to him at this time. The PRESIDING OFFICER. The Senator from North Dakota is recognized.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD and Mr. BUMPERS, proposes an amendment.

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

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

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 1. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE—Subsection (a) of section 954 (defining foreign base company income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "and", and by adding at the end the following new paragraph:

The amendment is as follows:

Mr. ROCKEFELLER. One minute.

Mr. EXON. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Medicare, let us face it, is a policy, it is a policy. There are large cuts. This is a huge cut. These are huge, huge cuts that are going to be made in the next 7 years that our people have absolutely no concept of. And here we are talking about adding on services. I am for that. I am for Senator SNOWE. She is an excellent Senator, and her sense-of-the-Senate resolution is excellent and it should be supported.

But the division on the one hand of the virtue of that purpose and the utter devastation of Medicare is a very awkward coupling, to say the very least. I hope we can all pray Medicare will not be cut more for breast cancer, for prostate cancer, but I will guarantee you it cannot so long as we are cutting $270 billion out of it.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, since no one is waiting in my time I will be glad to yield back our time.

Is there any time on this side?

Mr. SNOWE. Mr. President, I ask unanimous consent that Senator JEFFORDS be a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. EXON. Has all time been yielded back on both sides?

The PRESIDING OFFICER. Not all time has been yielded back yet.

Mr. EXON. May I request all time be yielded back?

Mr. DOMENICI. Does the Senator yield back all his?

The PRESIDING OFFICER. The Senator from Maine yields back. All time is yielded back.

Mr. EXON. I believe the next order of business would be an amendment offered by Senator DORGAN of North Dakota.

I yield 5 minutes to him at this time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD and Mr. BUMPERS, proposes an amendment.
(8) imported property income for the taxable year under subsection (h) and reduced as provided in subsection (b)(5).

(b) Definition of Imported Property Income—(1) In General.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived by or for a person with respect to certain categories of property imported into the United States by the controlled foreign corporation or a related person.

(C) Coordination with Foreign Base Company Income.—For purposes of this subsection—

(A) manufacturing, producing, growing, or extracting imported property.

(2) unrelated person means any person who is not a related person of the United States shareholders within which or with respect to which—

(i) such property was sold to the unrelated person by the controlled foreign corporation or a related person.

(ii) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person.

(2) Taxpayers.—For purposes of this subsection, the term 'important property income' does not include any property which is imported into the United States and which—

(A) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person.

(B) as a component in other property which is so sold, leased, or rented.

(3) Definitions and Special Rules.—(A) Import.—For purposes of this subsection, the term 'important property income' means any property income received or accrued by any person with respect to certain categories of property imported into the United States by the controlled foreign corporation or a related person.

(B) Unrelated Person.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation or a related person.

(C) Coordination with Foreign Base Company Income.—For purposes of this section, the term 'foreign base company income' shall not include any imported property income.

(5) Separate Application of Limitations on Foreign Base Company Income.—For purposes of this section, the credit for foreign property income shall not be allowed.

(a) In General.—Paragraph (1) of section 904(d) (relating to separate application of section 904(d)(1) to certain categories of income) is amended by redesignating 'and' as 'and (ii)' as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

(II) imported property income, and.

(2) Imported Property Income Defined.—(A) Paragraph (1) of section 904(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (B) the following new subparagraph:

(II) imported property income, and.

(3) Treatment of Property.—Paragraph (2) of section 904(d) is amended by inserting 'and the foreign base company oil related income and the foreign base company related foreign property income received or accrued by a person with respect to certain categories of property imported into the United States by the controlled foreign corporation or a related person.' after subparagraph (G) and by redesignating the following subsections accordingly:

(II) imported property income.

(b) Definition of Imported Property Income—The term 'imported property income' means any income received or accrued by any person with respect to certain categories of property imported into the United States by the controlled foreign corporation or a related person.

(c) Coordination with Foreign Base Company Income.—For purposes of this subsection—

(A) manufacturing, producing, growing, or extracting imported property.

(B) the sale, exchange, or other disposition of property imported into the United States by a controlled foreign corporation or a related person.

(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(h)).

(2) Imported Property Income.—For purposes of this subsection—

(A) in General.—Except as otherwise provided in this subsection, the term 'imported property income' includes any grant of the right to use an intangible (as defined in section 904(d)(1)(B)(relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) and (by redesigning the following subclauses accordingly):

(III) imported property income.

(B) Paragraph (3) of section 904(d) is amended by striking 'and the foreign base company oil related income and the foreign base company related foreign property income received or accrued by a person with respect to certain categories of property imported into the United States by the controlled foreign corporation or a related person.' after subparagraph (G) and by redesigning the following subsections accordingly:

(II) imported property income.
Senate. This makes good sense for our country.

Mr. PRESIDENT, with that I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I yield such time as he may need to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I rise in opposition to the amendment proposed by Senator DORGAN. In doing so, let me say at the beginning, I am not happy with companies that move abroad to a tax haven or cheap labor for the purpose of manufacturing products that are sold back to the United States. None of us can be happy with the export of American jobs.

At the same time it is important to understand that we are in the global economy and that if we are to provide well-paying, good jobs for our people, it is important that we become a vital force in the global economy that is now emerging. The United States must become competitive in this global economy.

My concern with the Dorgan amendment is that in hearings held before the Finance Committee in the past, Treasury has testified that this kind of legislation is very difficult to administer.

It has been pointed out, for example, what do you do in the case of a plant that sells both to the United States and to other companies abroad? Obviously, we want to encourage American businesses to compete in foreign markets, but would that company be entitled to the deferral, or how would you administer it?

Let me say that it is my intent, upon the completion of reconciliation, to look at a number of these important and complex international trade questions that are now being passed on in this reconciliation containing any amendments or provisions dealing with foreign trade or international matters. And as I have indicated, one of our reasons for taking this approach is that this is a matter of extreme complexity, of greatest importance to our economy and the creation of jobs in America. For that reason, we have not, as I said, included any provisions involving international trade matters in this legislation. For that reason, the Dorgan amendment is not appropriate as part of this legislation.

And I would say that it is my intent as chairman of the Finance Committee, which has jurisdiction over trade, that we will be holding a series of hearings dealing with the kind of problems that are raised by this amendment. But until we have a better idea of how to address this problem so that we do not, in the process of trying to correct one problem of people fleeing abroad to tax havens that sell back here, that we do not bring down the other problems, are going along for a legitimate purpose to become competitive in international markets.

So, for these reasons, I must respectfully disagree with this amendment. I yield back any remaining time.

The PRESIDING OFFICER. The Senator from North Dakota has 30 seconds remaining.

Mr. DORGAN. Mr. President, we do not need to study this; we need to stop it. Anybody who thinks that a tax break for moving American jobs overseas is good for this country probably thinks Elvis is living in a trailer park in St. Louis.

Nobody knows it is good tax policy to spend $2.2 billion in the next 7 years encouraging companies to shut their doors here and move their jobs overseas. What kind of nonsense is this? If we cannot support an amendment like this, why ought we turn off the lights and lock the door in this place?

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Michigan has 20 seconds remaining.

Mr. ABRAHAM. We yield back the remaining time.

The PRESIDING OFFICER. Time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. But at this time, I believe the next item in order will be the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Amendment No. 201

(Purpose: To provide States additional flexibility in providing for Medicaid beneficiaries)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:
The Senator from Texas (Mr. GRAMM) proposes an amendment numbered 2978.

On page 767, strike all after (4)" on line 1 through (4)" on line 16.

Mr. EXON. Mr. President, will the Senator from Texas yield for one moment? After the Senator has made his presentation, I yield 5 minutes to Senator ROCKEFELLER in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, the whole logic of block granting Medicaid so that States could run the Medicaid Program with less money than if we had kept it as an entitlement is a belief that States can run the program better. In fact, both Democratic and Republican Governors have come to the national capital and said to us: "If you will let us run Medicaid, we will provide better health care and we will do it cheaper and we will share the savings with you." On a bipartisan basis, they have supported our efforts to block grant Medicaid to the States, the logic being that States are capable of making decisions about running Medicaid, the logic being that the Governor and the legislatures of the various States who receive benefits from Medicaid in their State at least as much as we do. They know those people more intimately than we do, and, obviously, those people are capable of putting pressure on the Felix of offices, whereas they may not be able to vote against a Senator from another State.

In the markup in the Finance Committee before I became a member, an amendment was added that created a new entitlement. This is an entitlement imposed upon the States. The entitlement basically says that while we are giving States the ability to run Medicaid, that we are going to intervene at the Federal level and mandate that no matter how they structure their programs they have to provide three entitlements: specifically, they are told by us that there are three groups of people that they must cover.

There are groups that we would not want to cover; there are groups that the States would cover. But every Governor I know is outraged about this provision that mandates a State-managed program for pregnant women, for children under the age of 12, and for disabled individuals.

The point is this: Not that anyone wants to deny service to pregnant women or children under 12 or disabled people, but who are we in Washington to decide how the States are going to run this program? Is it not the ultimate arrogance for Washington to believe that only we care about pregnant women, that only we care about children under 12, that only we care about the disabled, and if we let the uncaring Governors, if we let the uncaring legislators run their program in their States, they are not going to take care of their own people?

I totally and absolutely reject this. This amendment flies in the face of everything we are trying to do in Medicare, everything that my party stands for, and I think this Big Brother Washington approach has to end.

I do not believe we are going to strip the rotten amendment out of this bill, but I want to have a vote on it. The whole logic of the Medicaid reform is we are going to let the local leaders who know their people best and who care most make the decisions. The idea that we are creating a new entitlement and we are imposing it on the States, and now in a new provision we are going to, in essence, let people go on the Federal coffers and sue the States on these issues. I think that is a retreat from what we promised the States when we gave them less money to let them run the program, and I reserve whatever seconds may remain on this debate.

Mr. ROCKEFELLER. Mr. President, this amendment should absolutely be
defeated on both sides. It has this wonderful kind of a kind-hearted title to it. It is a "kind" amendment, but what is really, in the judgment of this Senator, a very mean-spirited amendment, would just get as far away from doing anything for pregnant women and children and the disabled as the Senator possibly could. It is an amendment which should be absolutely crushed.

I yield the remainder of my time to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Senator from Texas says this is a new entitlement. Let us look at what the present law is. The present law mandates that, in every State of the Nation, the State must provide Medicaid coverage for children up to the age of 12, 100 percent of poverty, and for those over the age of 5, it is up to age 12 and lower, to 100 percent of poverty: and that increases it by a year each year so that by 2002, every child up to the age of 18 will be mandated coverage. So this is no new entitlement.

Second, the Senator from Texas says, "What arrogance for us to say to these States they must cover children up through the age of 12, 100 percent of poverty and below. What right have we to levy such a mandate on the States?" What he fails to mention is that we are spending $800 billion over the next 7 years—not million, but billion, with a "b." When you send out money like that you have 50 different ideas of what a disabled person is, and it is complete chaos. I really do believe this is a country which has not given up on the idea that if a child is sick, no matter what its family's income is, that the child should get care. If a poor person is ill, or needs a test because something is desperately wrong and nobody knows what it is, America is the kind of country where you should be able to get that test without worrying about something called 'flexibility.'

Health care is about giving people the opportunity to grow up to be what they really want to be. Health care is an enormous part of making people the best they can be. Health care is about giving people the opportunity to grow up to be what they really want to be. Health care is an enormous part of making people the best they can be.
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minimum wage who are adults—60 percent women—they are working at 70 percent of poverty level. Now, the whole theory of this country for years was based on the notion that we would value work, and if people went to work they would be able to break out of poverty. During the 1960's and 1970's, we respected that by keeping the minimum wage commensurate with the poverty level.

But ever since 1991, where we only caught up to a small percentage of the decrease of the prior 9 years, when there was no increase, we have had another 13 percent decline in the value of the purchasing power of the wage. So the wage, today, has a 26-percent purchasing power of what it had previously, and it is about to be at a 40-year low. In over 40 years, by 1996, if we do not change the minimum wage, it will never have been so low.

Mr. President, if you are going to be pro-family, if you are going to be pro-work, if you are going to be pro-community, you have to respect the notion that somebody ought to be able to take home a decent wage for an hour's work and for a week's work. The fact is, Mr. President, that under the current constraints, it is impossible for people to be able to do that, and we must go on record as really being pro-family, in an effort to try help them. I yield 1½ minutes to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with my colleague in urging the Senate to accept the sense-of-the-Senate resolution. Members can wonder why this is appropriate. Included in the legislation is the earned income tax credit, which is a program to try to provide some relief for the working poor. That program helps to provide assistance, particularly, to families with heads of households who have children.

The minimum wage is for those families that do not have many children. The minimum wage provides the greatest advantage for the single heads of household.

This amendment is prochildren because 76 percent of those who work full-time have children in their families. This amendment is for women, working women, because 80 percent of all minimum wage earners are working women.

This is for full-time workers. Mr. President: Sixty-six percent of all minimum wage recipients are full-time workers.

Once again, if we care about children, if we care about working women, if we care about making work pay in America, we will support this amendment.

Mr. KERRY. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining and is recognized.

Mr. DOMENICI. I yield back my time.

Mr. KERRY. The minimum wage worker today will earn $8.50 for full-time work. The poverty line is $12,500. Every economist, conservatives and liberals alike—at Harvard, and Friedman, says we need to have a combination of the earned income tax credit and the minimum wage to truly permit people to break out of poverty.

We can do this, as every study shows, without losing jobs—in fact, as New Jersey showed, creating further employment.

I hope my colleagues will go on record as being willing simply to debate and vote on this issue.

Mr. KERRY. Mr. President, I yield the Senator from New Mexico in his typical gracious and wonderful way be willing to give me 15 seconds?

Mr. DOMENICI. As the evening passes, I am getting less and less gracious.

I ask Senator KERRY of Massachusetts, did he mention a great economist from the University of Chicago in his wrap-up?

Mr. KERRY. I did not mean to. I meant to mention the one from Harvard.

Mr. DOMENICI. It was not Friedman from Chicago?

Mr. KERRY. No.

Mr. DOMENICI. Because he does not think this works at all. He thinks this makes for more people—I do not have any time left and we will get on with a vote.

Mr. KERRY. There are 101 economists and 3 Nobel laureates, and 7 past presidents of the Economic Association who endorse this increase.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2980

(Purpose: To make technical amendments to amendment no. 2980)

Mr. DOMENICI. Mr. President, I have an amendment on behalf of the Energy Committee, for Senator MURkowski, the chairman, and Senator JOHNSTON, the ranking member. It is a technical amendment. It will correct the reconciliation statute that the Energy Committee passed. I believe it is acceptable.

I send the amendment to the desk.

Mr. KERRY. The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. MURKOWSKI, for himself and Mr. JOHNSTON proposes an amendment numbered 2980.

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

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

The amendment is as follows:

(1) On page 304, line 20, delete "follows:" and insert in lieu thereof "follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2003)".

(2) On page 304, line 7, delete "thereafter," and insert in lieu thereof "thereafter, except for fiscal years 2003 and 2004."

Mr. DOMENICI. Am I correct. I say to the whip, is this acceptable?

Mr. FORD. I do not know. I have not seen it. Apparently, the Budget Committee ranking member is willing to accept it.

Mr. EXON. We have no objection. I agree to the amendment.

Mr. DOMENICI. I yield back my time.

Mr. EXON. I yield back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. Is it appropriate under the unanimous consent that we adopt this amendment, or must we hold it?

The PRESIDING OFFICER. If there is a unanimous consent agreement to adopt the amendment, that may be done.

Mr. FORD. Mr. President, we should keep it going. It is the ninth amendment of the amendment remaining.

I want to state to the distinguished ranking member, Senator EXON, the majority leader requests that we do some of your amendments, giving us additional time. They are not yet finished in terms of drafting. It must be one with at least 5 minutes on a side.

Could you proceed to the Kennedy—Wellstone—Pryor and reserve our one remaining?

Mr. EXON. That sounds reasonable. Mr. DOMENICI. If we come in perhaps after 30 minutes and are ready, we could intervene. Mr. EXON. I see nothing wrong with that. We can move on to the Kennedy amendment, the next amendment on my list. I yield 5 minutes to Senator KENNEDY.

AMENDMENT NO. 2981

(Purpose: To strike the provision allowing the transfer of excess pension assets)

Mr. KENNEDY. I send to the desk an amendment on behalf of myself and the Senator from Kansas, Senator KASSEbaum, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 2981.

Strike section 12807.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

Mr. President, this proposal allows the Republican measure that is now before the Senate, the Republican budget, therefore, his older Americans not once but twice. The Medicare cuts are an outrage and so is the raid on workers' pensions. No one can claim they are saving
Mr. KENNY. I yield 2 minutes to the Senator from Florida.

Mr. GRAHAM. Mr. President. I ask unanimous consent to be listed as an original cosponsor of the amendment.

Mr. GRAHAM. In an earlier debate I mentioned this is legislation filled with risk. We have now identified another one of those areas of risk. Have we forgotten so soon? It was just a few years ago that we were having pension plans across America fail because they were underfunded.

In many cases, they failed because they had been used by corporate raiders as a means of financing mergers and acquisitions which then destroyed the jobs of the very people for whom the pension fund was intended to protect.

I cannot believe in 1995 we are about to not only make it easier but, I am going to suggest, positively encourage this type of behavior. Why would we encourage this behavior? If a chief financial officer of a corporation failed to take advantage of this program, he or she ought to be fired for corporate malfeasance.

Here is what we are about to do. We allow a corporation in profitable years to underfund their pension, to put in more than is required in order to meet that year's annual pension amount. Then, when the corporation in a business cycle has a not-so-good year, we are allowing them to reach in and withdraw those funds.

What is the significance to the U.S. Treasury? They take a full deduction when they put the money in the pension. They pay no taxes when they take it out in a year in which they owe taxes. It is a disgrace that it is part of this legislation. It has no part in a bill which is intended to balance the budget, to reduce the deficit, the budget that we are trying to pass this year.

This is an outrage. Mr. President. It is a disgrace that it is part of this legislation. It has no part in a bill which is intended to balance the budget, to reduce the deficit which we are trying to pass this year.

I urge adoption of this amendment.

Mr. MOYNIHAN. Mr. President, the Republicans' revenue recommendations contain a slew of tax breaks for businesses that do not belong in a deficit reduction bill. One of the most egregious of these special tax breaks is a provision on corporate pension transfers that would allow employers to take billions of dollars in tax deductions from pension plans to the extent of their costs for other employee benefits—such as health care for active employees—without paying the current taxes on it.

This proposal opens the door for up to $47 billion to be removed from the pension system, thereby endangering workers' retirement security and increasing the risk to the Pension Protection Act last year to strengthen pension funding. It makes no sense to turn around a year later and weaken pension funding in a way that puts both retirees and taxpayers at risk.

This issue presents a stark choice about who we represent here in the Senate. Which side are we on? Are we on the side of the workers and retirees who struggle to find some economic security in their old age? Or on the side of the wheeler dealers, corporate raiders, and the super rich? I want the Senators to say no to this raid on retirees and no to this insenscious attack on the pension funds.

Mrs. KASSEBAUM. Mr. President. I want to take a few moments this afternoon to discuss a provision in the reconciliation package that has attracted a lot of attention. It is the House proposal that would allow a corporation in profitable years to underfund a pension plan and take billions of dollars in excess assets from these plans. The Senate Committee on Labor and Human Resources, which I chair, shares jurisdiction over the Employee Retirement Income Security Act (ERISA) with the Committee on Finance. In the past, the Labor Committee has taken an active role in pension security and pension reversion issues. In fact, the provision reported by the Finance Committee contains modifications to the ERISA, which clearly fall within the Labor Committee's jurisdiction.

Yet the Labor Committee did not consider the pension provisions contained in the reconciliation that have attracted relatively little attention to this point.

As many of my colleagues know, the House reconciliation bill includes a measure designed to generate approximately $10 billion in tax revenue by doing away with penalties Congress imposed in 1990 on pension fund withdrawals. The House proposal generally allows companies to take money from pension plans that are more than 125 percent funded and use those funds for any purpose, without informing their workers.

In response to a wave of corporate takeovers and pension raids in the 1980s, Congress imposed a 50 percent excise tax on pension fund reversions, except in limited circumstances. The idea was to make it costly for companies to take assets from their pension plans. And, indeed, the raids on assets ceased almost entirely. Before this change, however, about $20 billion was siphoned from pension funds in just a few years, many pension plans were terminated, and thousands of workers saw their pensions replaced by risky annuities that provided lower benefits.

The reconciliation package before us includes a pension reversion measure that is similar to the House proposal. Under the Senate bill, excess pension assets would be available to fund active and retiree health benefits, underfunded pension plans, disability benefits, child care, and educational assistance plans.

Mr. President, this represents a significant change in pension policy. I understand that there are approximately 22,000 pension plans covering 11 million workers and 2 million retirees that have assets in excess of 125 percent of current liability, and that the Joint Committee on Taxation estimates that the pension reversion provisions contained in both the House and Senate bills could result in the removal of tens of billions of dollars in assets from pension plans.

Therefore, while the Senate proposal clearly is more limited than the House proposal, I nevertheless must oppose it. I understand there will be an amendment to strike this provision that will be offered by the ranking member of the Senate Labor and Human Resources Committee, Senator KENNEDY. I want to make clear to my colleagues that I intend to support that amendment.

The Senate Committee on Labor and Human Resources, which I chair, shares jurisdiction over the Employee Retirement Income Security Act (ERISA) with the Committee on Finance. It has been my intention to have my Senate colleagues consider the pension provisions contained in both the House and Senate bills and, if they agree, to offer an amendment to the Senate bill that is designed to strike this provision.

In an earlier debate I mentioned this is legislation filled with risk. We have now identified another one of those areas of risk. Have we forgotten so soon? It was just a few years ago that we were having pension plans across America fail because they were underfunded.

Here is what we are about to do. We allow a corporation in profitable years to underfund their pension, to put in more than is required in order to meet that year's annual pension amount. Then, when the corporation in a business cycle has a not-so-good year, we are allowing them to reach in and withdraw those funds.

What is the significance to the U.S. Treasury? They take a full deduction when they put the money in the pension. They pay no taxes when they take it out in a year in which they owe taxes. It is a disgrace that it is part of this legislation. It has no part in a bill which is intended to balance the budget, to reduce the deficit which we are trying to pass this year.

I urge adoption of this amendment.
The Republicans have included this provision among a small group of so-called corporate welfare reforms that raise revenue through restrictions on tax rules under which the affected companies currently operate. The pension transfer proposal generally would be revenue neutral. The proposal merely frees workers' pension funds to be used for general corporate purposes, such as executive bonuses or extra shareholder dividends.

Earlier this year, the Finance Committee devoted several weeks to hearings on how to increase our Nation's savings rate. We found that the savings rate is terribly low, and that the high rate of consumption was hurting the economy. Yet, the Finance Committee has now recommended to the Senate a provision that both weakens the retirement security of employees and re- move a key source of savings—employees' pension funds.

Despite Republican assertions to the contrary, the proposal poses a serious threat to the security of the affected pension plans. First, the pension transfer proposal generally would be revenue neutral. The proposal merely frees workers' pension funds to be used for general corporate purposes, such as executive bonuses or extra shareholder dividends.

The laxity of this standard is demonstrated in PBGC's analysis of several large plans. PBGC's analysis of 10 large plans revealed that a transfer in assets under the proposal to be-

In light of all these defects, I believe the proposal is fundamentally flawed as a matter of retirement and tax policy, and strongly urge my colleagues to support my amendment.

Mr. DOMENICI. I yield my 5 minutes to the distinguished chairman of the Finance Committee.

This is a matter of retirement and tax policy.
benefit plans that cover a broad group of employees. That is a most important point that must and should be understood. Employers can only tax out the excess assets to fund other ERISA-protected employee benefits that cover a broad group of employees. That is just common sense. And the plans that can be funded with the excess assets are limited to—and let me spell them out—other retirement plans of the employer, including underfunded retirement plans; active and retiree health plans; child care; disability; and educational assistance.

This is a good plan, and, for that reason, I must oppose amendment of Senator Kennedy.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Senator Kennedy.

Mr. KENNEDY. I yield the final 30 seconds to Senator Jeffords, Senator BIngaman, Senator Wellstone, Senator Simon, and Senator Graham be added as cosponsors.

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

Mr. JEFFORDS. Mr. President, I rise in vigorous support of removing these provisions in this bill because we are dealing here with a very serious problem. The Senate has put the excess assets to fund other ERISA-protected employee benefits that cover a broad group of employees. I rise in support of the amendment that is within the jurisdiction of our committee. We would want desperately to make sure that what things are done are done correctly and appropriately.

Not a single one of the sponsors of the bill clerk reads as follows:

The bill clerk reads as follows: The Senator from Minnesota [Mr. WELLS] proposes an amendment numbered 982.

Mr. WELLS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII. insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 938 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1995."

(b) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1995 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

(3) SEC. 12805. REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from striking section 12816 and section 12842 as contained in the Balanced Budget Reconciliation Act of 1995 as reported by the Senate Committee on the Budget on October 23, 1995, in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

(3) SEC. 12805. REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from
whose estimates you use. I do not have time to go through each of these corporate welfare provisions, but let me simply say that over and over and over again this week we have been talking about basic fairness. And that closing these loopholes is an attempt to make the Tax Code fairer. I will tell you right now, as people in the country look at this deficit reduction bill, they know that it is based upon the path of least political resistance. They know that it is disproportionately by working families and middle-income people and low- and moderate-income people who have been targeted.

Mr. President. I do not know one citizen in Minnesota, or in any of our States, if the truth be told, who would not agree with the proposition that we ought to close some of these loopholes. And by closing some of these loopholes, with these benefits going primarily to large companies that do not need the benefits that have not been asked to tighten their belt instead of allowing these to continue we would have more money to slash the deficit further, to invest in law enforcement, in education, in children, in health care. In transitioning to child care, in child nutrition programs.

It is a matter of priorities. Donald Barlett and James Steele won a Pulitzer for their book here: America: Who Owns It? They are two really fine investigative reporters for the Philadelphia Inquirer. And in the section of the book: "America: Who really pays the Taxes?" they have an interesting paragraph.

For over 30 years, Members of Congress and Presidents, Democrats and Republicans alike, have enacted one tax after another to create two separate and distinct systems, one for the rich and powerful called the privileged persons' tax law, and another for everyone else called the common person's tax law.

Mr. President, this amendment will move us back toward a Tax Code that treats people fairly. It is time for some basic fairness, and that is the meaning of this amendment.

I reserve the rest of my time.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. DOMENICI. Mr. President, it sounds good to talk about getting rid of depreciation and intangible drilling costs for the oil and gas industry in the United States until you understand that most of these go to independent producers, those who really find the diminishing supply of both oil and gas in America. These are not exceptional depreciation allowances. They are not some sort of gratuity or a gift. They are absolutely necessary unless we want to make a decision that America's own oil and gas production should disappear and we should not have any. We import oil now, about half of our needs, and that is growing. And speak of losing jobs and losing growth. This industry that we would now try to take away the last, the last thing they have that might give them a chance to survive, succeed, employ people and produce oil, has already lost 250,000 jobs since the small embargo situation with Iran.

We fought Desert Storm, and make no bones about it, because oil is precious to the United States, because it is a commodity without which our American economy for now and the foreseeable future will work. Now, why would we come to the floor in a balanced budget activity and decide that we are going to take away what will keep the little industry we have left here, the men and women who work in it, to produce it and make a living? To me, it seems absolutely absurd. It seems kind of like backward economics to go out there and pluck this industry, perhaps because there is none in some States, or perhaps people think when oil and gas is mentioned it is Exxon or that it is Mobil—nothing wrong with them, but obviously in the United States, the principal people working and producing oil and gas are independent producers. They are finding most of the new oil. They are operating most of the rigs out there now. And I might just say, at this particular time we have the lowest rig count since we started keeping records. That means that even with these allowances we are hardly keeping pace with producing any new oil in America's oil patch.

Now, Mr. President. Senator NICKLES wants to speak about a minute or so on this, and if the Senator would permit me, I will reserve the remainder of my time and let the Senator complete his with the hope that Senator NICKLES will arrive.

Mr. WELLSTONE. Mr. President, I will just take a minute and then wait to respond later, if I could.

The PRESIDING OFFICER. The Senator from New York has 2½ minutes.

Mr. WELLSTONE. Well, I do not think the Senator from New Mexico, if I could, he will be here for all of his 2½ minutes. I hope that the Chair will allow me to continue.

Mr. WELLSTONE. Mr. President, I will arrive.

The PRESIDING OFFICER. Who is here? I thought the Senator from New Mexico?
Mr. WELLSSTONE. How much time is on the other side, Mr. President?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I yield 1 minute to Senator NICKLES.

The PRESIDING OFFICER. Senator NICKLES has 1 minute and 5 seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to oppose this amendment. I just heard about it. I understand he says, well, we want to take away this advantage. IDC. Really, what my colleague is saying is, you should not be able to have this out-of-pocket, nonrecoverable business expenses. That is ludicrous. It should not happen. He happens to be wrong on that issue.

I think I heard my colleague say that he wanted to eliminate the 936 benefit that goes towards Puerto Rico. We do that in this bill. We do it in the bill over 7 years and over 6 years. There are two different ways you count that benefit. It is now over 6 or 7 years. I think it is a responsible provision. I guess he wants to do it immediately, but you have a lot of firms that have made investments. I think that would be very inappropriate.

My colleague may call it corporate welfare. But again, I think this committee has taken some very responsible action in allowing people to deduct their out-of-pocket, nonrecoverable business expenses as should be allowed phasing out the tax benefit that was directed towards Puerto Rico.

So I would urge the Senate to oppose my colleague's amendment.

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

Mr. WELLSSTONE. Mr. President, facts are stubborn things. It is a fact that IDC's are a special exemption. That is ludicrous. It should not be able to deduct ordinary out-of-pocket, nonrecoverable business expenses. That is a fact. In 1993, I wanted to phase phasing expenses. That is a fact. It is a fact that IDC's are a special exemption. The PRESIDING OFFICER. The Senator's time has expired.

Mr. WELLSSTONE. The Senator from Nebraska yields for a moment, a split second.

Mr. EXON. Yes.

Mr. WELLSSTONE. I ask unanimous consent that Senator FEINGOLD be included as an original cosponsor of my amendment.

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

Mr. EXON. I now recognize Senator PRYOR for Arkansas for his amendment and yield him the 5 minutes.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I yield myself 5 minutes and have an exchange with the Senator, a conversation that our leader asked me to have. If the Senator would?

Mr. EXON. Certainly.

Mr. DOMENICI. We have 17 amendments that are completed.

The PRESIDING OFFICER. The Senator from New Mexico has no time.

Mr. DOMENICI. Please?

The PRESIDING OFFICER. I am informed the Senator from New Mexico has no time.

Mr. DOMENICI. Where is the time?

Could the Senator yield me 4 minutes to engage in this conversation?

Mr. EXON. I will.

Mr. DOMENICI. I say to the Senator, Senator Dole has suggested, since we have 17 amendments to vote on now, we would like to vote on them tonight—but that will put us well beyond 12 o'clock, and we will vote on them all—or not vote on them all, but vote on two amendments until morning, and that be the Pryor amendment and what the Senator has heretofore called the Roth amendment. And we would not change anything about those amendments in terms of votes—5 minutes of debate, and every-

thing else—but they would be two that we would not lay down tonight.

We would go ahead and put CONRAD's amendment if you would like, and that would leave two amendments for tomorrow. And then we could use this evening to see what the remaining lists of amendments are. We have 2 hours or 3 hours that we are going to be down here. The Senator's side and ours could put together the list which would follow after the end of our second tier, which is the goal. The Roth—

Mr. EXON. I would have to check on it. Could we put in a brief quorum call and see if—this surprises me. I do not know whether there is objection to it or not.

I know Senator PRYOR is ready to go. Could we put in a quorum call for a few minutes?

Mr. FORD. Would the Senator yield for one moment? We have another amendment.

Mr. DOMENICI. Yes.

Mr. FORD. You talked about the Pryor amendment. We have the Simon-Conrad amendment that is also mentioned. The Senator says take that one tonight and have Pryor tomorrow?

Mr. DOMENICI. I called it Conrad. I am sorry.

Mr. FORD. I do not believe Senator Pryor is going to be willing to move his away from tonight.

Mr. EXON. Wait a minute. How many amendments? We have Pryor, Conrad, Roth. Is it Conrad-Simon? All right. We have three amendments: right.

Mr. DOMENICI. We call it Conrad: he calls it Simon.

Mr. EXON. All right.

Mr. NICKLES. One wears a bow tie.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I understand they have two amendments on their side. We will hold our Roth amendment until morning. So we will proceed with theirs at this point.

Mr. EXON. Mr. President, I thank the chairman of the committee.

I now recognize Senator PRYOR, as I did previously, and have awarded him the 5 minutes on our side.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. PRYOR. Thank you, Mr. President. I thank the Chair for recognizing me.

AMENDMENT NO. 2983

(Purpose: To provide for the continuation of requirements for nursing facilities in the Medicare Program.)

Mr. PRYOR. Mr. President, in this 2,000-page piece of legislation, the
budget reconciliation bill of 1995, we would think that just about everything under the sun would have been thought of and included in this to consume some 2,000 pages.

But what we did not include in this reconciliation bill is something very, very vital. Mr. President, because those are the nursing home standards that we have had since 1987, and if we fail to reenact those same nursing home standards on the Federal level, we will be failing to protect a very, very fragile and vulnerable asset, which is the elderly population of this country, some 2 million now residing in these American nursing homes.

Mr. President, I send the amendment to the desk. I send it to the desk on behalf of myself and Senator Cohen of Maine.

The PRESIDING OFFICER. The clerk will report.

Mr. PRYOR. I have several cosponsors. I will call those at this time. It will consume too much time.

The bill clerk reads as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMMER, Mr. JORDAN, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LUTENBERG, Mr. LEAHY, Mr. LEVEN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, and Mr. KOHL proposes an amendment numbered 2983.

Mr. PRYOR. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR FACILITIES.

"The provisions of section 1919 as in effect October 26, 1995, are applicable to all nursing homes, except centers furnished services under the State plan, which furnish services under the State plan.""

Mr. PRYOR. Mr. President, since we enacted OBRA 1987, we have seen a dramatic change in the care of the nursing home patients in our country. For example, we have seen a 38 percent decline in the number of physical restraints. Since the enactment of the OBRA 1987 nursing home regulations, which was, I might say, a bipartisan effort—the late John Heinz, former Senator Durenberger, former Senator George Mitchell, former Senator Jack Danforth from Missouri—we have seen a dramatic advance in all of the things that make the quality of care in nursing homes better; for example, in resident outcomes, a 50 percent increase in the number of dehydration cases that we have solved, and no longer do we find many of these patients dehydrated.

We see also just a characteristic of the nursing home population, Mr. President. And how are we going to afford to look them in the eye and say that we failed to adopt any Federal standards? I want to say, without regard to the budget reconciliation bill and we are going to say to the 77 percent of those who need help dressing, to the 63 percent who need help in toileting, the 91 percent who need help bathing, "We are sorry, you can just make it yourself, we are doing away with all Federal standards. We are going to leave it to the States?"

But, Mr. President, the reason we have Federal standards today as a result of OBRA '87 is because the States were not meeting their obligation and their challenge.

Mr. President, I know that there are two or three of my colleagues who want to think—know that Senator ROCKEFELLER wants 30 seconds. I yield 30 seconds to Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. ROCKEFELLER. I thank the Presiding Officer and the Senator from Arkansas. If there was a sense upon my colleagues of nervousness just before Senator Pryor offered his amendment—there was a lot of huddling—in the sense of what was going to happen, my colleagues noticed correctly. I think that there was an effort to try and not have a vote on this tonight, because I think that most important amendments that we will vote on in this entire, somewhat bizarre process. The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Presiding Officer call the managers of the bill to put in an amendment numbered 2983.

Mr. COHEN. Mr. President, I ask unanimous consent to acknowledge Senator Boxer of California who has truly spoken on many occasions and feels passionate about this amendment.

Mr. DOMENICI. Mr. President, Senator Chafee is going to explain where we are. Let me just suggest, at Senator Cohen's suggestion, Senator Chafee, and others, the so-called Finance Committee amendment, which you are going to have an evening to look at, will have everything in it Senator Cohen wants and even further improvements than the one before us. So I do not want anyone to think that we have done that after we defeat your amendment tonight, because it is in there and you all will see it when we get it circulated.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I commend the Senator from Arkansas for his efforts in connection with the nursing home standards and, indeed, he and I have worked together in the Finance Committee. I voted with him in conjunction with his amendment, which was defeated 10 to 10.

Since then, in conjunction with Senator Cohen and others on this side, we have prevailed upon what you might call the managers of the bill to put in a very, very good Federal nursing home standard provision. As regards nursing homes, there are two provisions in here that I think are superior to the provision that Senator Pryor has. Although I am not intimately familiar with everything that he has.

One, in the provision that we have, we remove the costly and duplicative requirement that standards perform so-called predetermination screening and annual resident review, which is known by the acronym of PASARR, and that...
would not be included and it is my understanding that this is a rather good provision.

Second, we have a proposal that if the States have tighter inspection requirements than the Federal, then the States can apply to the Secretary of HHS for a waiver and have those tighter provisions included as the inspection requirements or the standard requirements for the nursing homes within that State. You might say, "Well, how do they go about enforcing it?" We have a provision that it can be enforced by HCFA. So we think that this has a lot of provisions in it that have merit. I urge those on the other side to take a look at this provision that is in the so-called managers amendment.

Mr. ROCKEFELLER. Will the Senator yield?

The PRESIDING OFFICER. There is still quiet in the Chamber. The Senator is entitled to be heard.

Mr. DOLE. Mr. President, I ask Senator COHEN from Rhode Island to yield?

Mr. CHAFEE. Quickly, because it is on my time.

Mr. GRAHAM. I agree with what you just said. I would like to be able to compare the specifics of what is going to be offered with what Senator PRYOR and others have offered. When will we have that opportunity?

Mr. DOLE. I can respond. I think that language is ready now. I think we are ready to debate it in English, but I think the language is ready. That is why we wanted to wait until the morning so we can compare that.

Mr. GRAHAM. The difficulty is we are going to get this sometime in the morning and then be expected to vote on it. We are going to vote on this amendment tonight; correct?

Mr. CHAFEE. I think the suggestion was to put the vote off until the morning and then give you a chance to look at this particular provision.

Mr. GRAHAM. The vote on Senator PRYOR’s amendment off until tomorrow?

Mr. DOLE. Both.

Mr. DOMENICI. Both; we ask for both.

The PRESIDING OFFICER. The Chair advises Senators to please go through the Chair so we keep some control. Who seeks time? There is 1 minute 28 seconds left.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me indicate that we have addressed this concern, and I think as Senator CHAFEE points out, if we really want to find the best provision, we ought to compare the two. We may not vote on the Pryor amendment tonight. I will decide how many amendments we vote on that, but we will have an opportunity to look at the language in both.

If you are looking for a political vote, we can have the political vote, but if you are looking for the best provision—it was worked out with Senator COHEN, Senator SNOWE, Senator CHAFEE, and others on this side of the aisle. We think it is a pretty good provision. So I hope if we are interested in getting the best provision in the bill, we will do as Senator DOMENICI suggested: Wait until morning, have a vote, find out which is the superior provision, and then vote accordingly.

The PRESIDING OFFICER. The Chair apologizes. The Chair did not ask the Senator from Rhode Island if he would yield to the majority leader.

Mr. CHAFEE. Do I still have control of the time?

I would have been delighted to have yielded that time.

The PRESIDING OFFICER. I again apologize and give back 20 seconds.

Mr. CHAFEE. Was there another question, or does that satisfy everyone?

The PRESIDING OFFICER. There are 18 seconds left to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask Senator COHEN if he wants to say anything?

Mr. COHEN. I believe I will get 2 minutes to speak.

The PRESIDING OFFICER. There is no time left on the Democratic side.

Mr. EXON. I yield 2 minutes off the bill to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, let me specifically address the issue whether or not this is a political effort on the part of my colleague and friend from Arkansas, Senator PRYOR.

We had a hearing this morning dealing with nursing home standards. I want to say, for the benefit of all who are here, I have been working with Senator CHAFEE, Senator SNOWE, and others, to try to make sure that the standards that were set in place by OBRA 1987 go back into place, that we have Federal standards and Federal enforcement of the nursing home rights, as such. Senator DOLE has been most amenable to that.

I think Senator CHAFEE is correct that we have actually made some improvements in cutting back on some of the things that do not need to be there: that are costing money and are duplicative. One issue remaining in my mind is, in fact, the extension of the waiver, so-called, to the States that have higher standards than required by Federal law. The concern I have is that if such standards are so high that they therefore would apply for a waiver, what in fact would be the role of the Federal Government as far as oversight and enforcement? If there will be strict oversight and enforcement, I would recommend we support the bill that we offered as part of the managers’ bill. If we support a provision that is a major loophole that would be seen as such by those in the business itself—the nursing home industry, providers and consumers—I would have problems supporting the substitute contained in the managers’ bill. I have not seen the language.

I think Senator DOLE is correct. We ought to put this off until tomorrow so we can compare the language. If we are satisfied there will be adequate oversight and enforcement authority retained by the Federal Government. I would recommend to my colleague from Arkansas that we accept the managers’ bill.

Mr. PRYOR. If my friend from Maine will yield, Mr. President, let me remind my colleagues that in the managers’ amendment to be offered by Senator ROTH tomorrow, the nursing home provision is only a very, very small part of it. There is going to be, as I understand it, a change in the Medicaid formula, also encompassed in the managers amendment. This is only a small section of it.

I think we should go ahead according to schedule. We have all been here all day, playing by the rules. Let us vote for the Pryor amendment and the Pryor-Owen amendment and if we need to change it tomorrow, we can, and we can look at it tomorrow.

The PRESIDING OFFICER. The time of the Senator has expired. All time on the amendment has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, we are down to the final amendment, as I understand it, we will be debating tonight. Therefore, I yield the 5 minutes on our side to Senator SIMON for his distribution.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2 minutes.

AMENDMENT NO. 2984

(Purpose: In the nature of a substitute)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. CONRAD, proposes an amendment numbered 2984.

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

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

(The text of the amendment is printed in today’s Record under “Amendment Submitted.”)

Mr. SIMON. Mr. President. this is the amendment you have read about in the Washington Post when it says a “Good Budget Compromise.” This is the amendment the New York Times has editorialized about. This says balance the budget, number one. And we have a comprehensive program to do that. Number two, we eliminate the tax cut.
Mr. DOMENICI. I yield back my time.

Mr. NICKLES. Mr. President, I thank my colleague from New Mexico. I join him in opposition to this amendment.

Although I compliment the sponsors of the amendment for saying we should use an accurate CPI, they do not go as far as that was proposed by a group of economists that said we should use from 0.7 percent and maybe above 1 percent. Whatever the facts is, it should be accurate, and most estimates are that 0.5 percent, which would save something like $115 billion, is on the low side. So I compliment them for doing that.

I rise in opposition to their proposal because they want to spend $245 billion more so we do not tax more. I would like to give taxpayers a break for $245 billion and reduce spending to pay for it. That is the difference between the two.

I compliment them for a very significant element of this package and hope that ultimately we will use accurate CPI reflection in all of our cost-of-living adjustments.

Mr. DOLE. Mr. President, as I understand, the amendment has gone as offered that will be offered this evening in tier 2. The committee amendment will be offered tomorrow morning.

I now ask unanimous consent that the votes scheduled to begin now be called with 1 minute before the call vote, with 1 minute for explanation between each vote to be equally divided in the usual form.

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

Mr. DOLE. Let me persuade my colleagues we will have about 18 votes here. If we all stay in the Chamber we will probably save 20 or 30 minutes. There are not many places to go at 9:30 at night around here. They can watch the ball game right off the floor. Hopefully, we will accommodate one another by being here.

The first vote will be the normal 15 minutes plus 5 to give people time to come back from where they want to come back from.

The PRESIDING OFFICER. Does the request include 1 minute before the first vote?

Mr. DOLE. One minute before each vote equally divided in the usual form.

We will start tomorrow morning at 9 o'clock, and we hope to have 7½-minute votes after the first vote, so we ask all Senators to remain in the Chamber—not overnight but back here.
Mr. DOMENICI. Mr. President, I wonder if Senator EXON would join in requesting from his side what I request for our side.

We still have a third tier, which are all the amendments that will not get debated. We would like to use the evening now while we are here voting to have you get as many together so we know, maybe tonight or early morning, how many you have. And we have some. Perhaps we can give the Senators an idea, then, by midmorning on how many there are.

Mr. EXON. I advise my colleague we have been working on that. We were talking about it a few minutes ago in the cloakroom. We do not have a definitive number. We have made major reductions generally in the area that we have been talking to you in our series of negotiations about where we think we will end up. I do not know that I can give a specific number tonight. I will explore that.

The PRESIDING OFFICER. The first amendment is numbered 2964 by Senator McCaIN and others: 1 minute, equally divided. Who yields time?

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. All time is yielded back. If NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Did we order the yeas and nays on all the amendments?

The PRESIDING OFFICER. Is there an objection for all the yeas and nays to be ordered at one time?

Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered on all amendments that have been debated so far.

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

[Role Call Vote No. 508 Leg., S 15827]

The PRESIDING OFFICER. The amendment (No. 2964) was agreed to.

AMENDMENT NO. 2965

The PRESIDING OFFICER. Ladies and gentlemen, the next amendment is amendment 2965 by Mr. HELMS, 1 minute equally divided. Mr. ROCKEFELLER. May we have order.

The PRESIDING OFFICER. There will be 1 minute equally divided on this amendment prior to the vote.

The Chair recognizes the Senator from North Carolina.

This is going to be a long night unless we can get quiet after these votes. Mr. HELMS. Mr. President. I think this is one of few times when both sides are in favor of an amendment. It is to protect the right of senior citizens to choose their own doctors if they wish. I think the distinguished manager of the bill, Mr. DOMENICI, has a clarification.

Mr. DOMENICI. I would like to say for the Republicans, there is a technical error on the explanation. This amendment has been modified so that the language in our Whip Notice—"If you don't comply, they are not eligible for Medicare reimbursement"—is out of this. It is not in this amendment. I think the amendment deserves to be adopted.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the amendment contends that the Republican budget's destructive plan for Medicare will preserve the senior citizen's ability to get their care through fee for service and continue to see his or her own doctor.

Now, it is fine to pretend, so vote for the amendment. It is all right. It is not going to do any harm. Make no mistake. There is no guarantee of anything in the Helms amendment for seniors and their future ability to see their own doctor.

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

The PRESIDING OFFICER. The Yeas and nays have been ordered on every amendment.

Mr. DOLE. Mr. President. this will be an 8-minute vote. The PRESIDING OFFICER. This is an 8-minute vote.

Mr. DOLE. This is the test. If we all stay here, it is the PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll. The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 20, as follows:

[Role Call Vote No. 508 Leg., S 15827]
The PRESIDING OFFICER. The question is on agreeing to amendment No. 2969.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

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

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So, the amendment (No. 2969) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me observe that, out of the three votes, we have had two unanimous votes. Maybe some could be done by voice vote. It would save some time. Otherwise, we are going to stay on the eight-minute schedule, and I urge my colleagues to stay on the premises.

The PRESIDING OFFICER. The pending question is amendment No. 2970.

Mr. EXON. I yield 30 seconds to the Senator from Iowa.

Mr. HARKIN. Mr. President, this amendment is the fraud, waste, and abuse amendment. It saves $600 million, by CBO's estimate, more than the underlying amendment. This is a culmination of 5 years of hearings.

All of the things in this amendment were recommended by the Inspector General's office and by GAO. It saves more than $500 million. In sum, all I can tell you is what this does. It says that when the Veterans Administration pays 4 cents for a bandage and Medicare pays 86 cents, something is wrong. Let us pay the same thing as the Veterans Administration. That is what this amendment does.

Mr. DOMENICI. Mr. President, I yield to Senator COHEN.

Mr. COHEN. Mr. President, the anti-fraud provision in the Finance Committee measure has been the product of over 3 years of effort on my part. I have had to work with Justice, FBI, the White House, providers, consumers, and they support the provision as written.

In addition to that, there is a deletion under my bill which would allow the criminal fines imposed under the previous amendment to go back into the Medicare trust fund. That is deleted under the Senator's amendment.

I urge that we reject this amendment for a variety of reasons but, most of all, because it would make a last-minute change over something that is accepted by virtually everybody.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation bill pursuant to section 305(b)(2). I raise a point of order against the pending amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? (No. 2970)

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

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<th>Yeas—43</th>
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The PRESIDING OFFICER. The next amendment is amendment No. 2971.

There are 30 seconds on each side for debate.

Mr. McCAIN. Mr. President, this amendment removes about $90 billion worth of corporate pork over a period of 7 years. It has bipartisan support.

For the information of my colleagues, it does not include the auction of public safety spectrum. Obviously, this would be exempt from the auction of spectrum.

Mr. President, I understand the point of order may be lodged against this amendment. It makes no sense to lodge a point of order against an amendment that would reduce spending, which is what this legislation is supposed to be about.

Mr. EXON. The pending amendment would add two new matters to the bill and violate the prohibition of non-germane amendments. I raise a point of order that the pending amendment is therefore not germane and thus violates section 305(b)(2) of the Congressional Budget Act of 1974.

I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion.

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

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

The bill clerk called the roll.

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

The yeas and nays resulted—yeas 25, nays 74, as follows:

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The PRESIDING OFFICER. On this vote the ayes are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is well taken and the amendment fails.
The PRESIDING OFFICER. On this vote, the yeas are 25; the nays are 74. Three-fifths of the Senators duly chosen and sworn did not vote. The amendment falls.

ANNUAL REPORT NO. 2972

The PRESIDING OFFICER. The question occurs on amendment 2972, offered by the Senator from West Virginia.

Mr. BYRD. Mr. President, my amendment restores $712 million rescinded by the bill in 48 States in highway funds. The PRESIDING OFFICER. The Senator from West Virginia will have 30 seconds.

Mr. BYRD. Senators. On the desk is a detailed table which shows the reductions that were made in each of the 48 States.

I restore this money by closing a corporate loophole. The corporate loophole shows the reductions that were made in each of the 48 States.

The majority leader.

Mr. DOLE. This is another infringement on the Governors. We are going to turn over these programs to the Governors. They cannot get health insurance, this.

Mr. DOLE. I would ask unanimous consent to proceed for 30 seconds.

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

The PRESIDING OFFICER. The time has expired. The Senator from West Virginia.

Mr. CHAFEE. Well, I will start. This bill which we passed 87-12. It does not require 200 such amendments to make it agreeable.

Mr. HARKIN. Point of order. The Senator is out of order.

The PRESIDING OFFICER. It is so ordered.

Mr. DOLE. Do not get to speak against it, since both sides were for it? There was no objection.

The motion to lay on the table was agreed to.

The majority leader.

Mr. DOLE. This is another infringement on the Governors. We are going to turn over these programs to the Governors.

We had this argument. We discussed it long and hard with the Senator from Rhode Island.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no objection.

Mr. DOLE. We would ask unanimous consent to proceed for 30 seconds.

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

Mr. DOMENICI. I move to reconsider the vote.

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

ANNUAL REPORT NO. 2973

The PRESIDING OFFICER. The question occurs on amendment No. 2973 offered by the Senator from Rhode Island, Senator CHAFEE.

The Senator from Rhode Island is recognized for 30 seconds.

Mr. CHAFEE. I am pleased to be joined in this amendment by Senators CONRAD and FRIST. The reconciliation bill says States must cover the disabled but does not define who is disabled. This amendment adopts the same definition of "disabled" as we used in the welfare bill which we passed—

Mr. HARKIN. Point of order. The Senator is not in order.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. CHAFEE. Do I start my 30 seconds over?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. CHAFEE. Well, I will start. This amendment adopts the same definition of "disabled" as we used in the welfare bill which was passed 87-12. It does not include substance abuses. That is a mistake in the little chit that was circulated here. These individuals are at 75 percent of the poverty level or less. They cannot get health insurance. This safety net is essential to them if they are going to stay in the community.

The PRESIDING OFFICER. The time has expired.

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

Mr. ROCKEFELLER. Mr. President, two excellent Senators are offering this amendment and trying to protect the basic Medicaid coverage for the very poorest, very oldest and disabled Americans.

I hope everybody will vote for it. But, again, you cannot turn a frog into a prince. The underlying bill would require 200 such amendments to make it agreeable. I hope people will support this.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no objection.

Mr. DOLE. We would ask unanimous consent to proceed for 30 seconds.

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

The majority leader.

Mr. DOLE. This is another infringement on the Governors. We are going to turn over these programs to the Governors.

We had this argument. We discussed it long and hard with the Senator from Rhode Island.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no objection.

Mr. DOLE. We would ask unanimous consent to proceed for 30 seconds.

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

The majority leader.

Mr. DOLE. This is another infringement on the Governors.

We had this argument. We discussed it long and hard with the Senator from Rhode Island.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no objection.

Mr. DOLE. We would ask unanimous consent to proceed for 30 seconds.

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

The majority leader.

Mr. DOLE. This is another infringement on the Governors.

We had this argument. We discussed it long and hard with the Senator from Rhode Island.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no objection.

Mr. DOLE. We would ask unanimous consent to proceed for 30 seconds.

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

The majority leader.

Mr. DOLE. This is another infringement on the Governors.

We had this argument. We discussed it long and hard with the Senator from Rhode Island.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no objection.

Mr. DOLE. We would ask unanimous consent to proceed for 30 seconds.

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

The majority leader.

Mr. DOLE. This is another infringement on the Governors.

We had this argument. We discussed it long and hard with the Senator from Rhode Island.
So the amendment (No. 2973) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2963

The PRESIDING OFFICER. The question recurs on amendment No. 2963 offered by the Senator from Louisiana. A motion to table is pending on which the yeas and nays have been ordered. Who yields time?

Mr. EXON. I yield 30 seconds to the Senator from Oklahoma.

Mr. BREAUX. Mr. President, I say to my colleagues, I urge my Republican colleagues to vote for this tonight, because NOW GINGRICH is going to do it in conference. You all are going to be on record of voting against it. They are going to fix it in conference.

I suggest to vote against tabling, because you can add 44 percent more children who would benefit from the child tax credit. Without this amendment, you are cutting off 31 million youngsters who will not benefit from the tax credit. It is that simple. Guess what? They are going to do it in conference. You all are going to be here, whatever it is.

Mr. BOND. Mr. President, pursuant to a unanimous consent agreement offered by the Senator from Missouri [Mr. Bond].

The Senator from Missouri has 30 seconds.

Mr. BOND. Mr. President, I move to reconsider the vote. Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2975 AS MODIFIED

Mr. BOND. Mr. President, the pending business is amendment No. 2975 offered by the Senator from Missouri [Mr. Bond].

The Senator from Missouri has 30 seconds.

Mr. BOND. Mr. President, pursuant to a unanimous consent agreement when I offered the amendment, I send a modification to the desk. The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2975), as modified, is as follows:

On page 1620 after line 1 insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(b) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "15 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. Mr. President, when I raised the question of deductibility of health insurance, I said we were looking for another offset. I have been able to work with the managers and the majority leader. They have enabled us to eliminate the offsets which would have taken out the long-term care insurance, and we are able to raise the deductibility for self-employed individuals and small business people from 30 to 55 percent. I believe that this is something we can work with in conference.

Mr. BOND. Mr. President, when I raised the question of deductibility of health insurance, I said we were looking for another offset. I have been able to work with the managers and the majority leader. They have enabled us to eliminate the offsets which would have taken out the long-term care insurance, and we are able to raise the deductibility for self-employed individuals and small business people from 30 to 55 percent. I believe that this is something we can work with in conference.

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Mr. BOND. Mr. President, when I raised the question of deductibility of health insurance, I said we were looking for another offset. I have been able to work with the managers and the majority leader. They have enabled us to eliminate the offsets which would have taken out the long-term care insurance, and we are able to raise the deductibility for self-employed individuals and small business people from 30 to 55 percent. I believe that this is something we can work with in conference.
This amendment will allow—it costs $35 billion, roughly $5 billion a year, and it would allow a $10,000 per year deduction—maximum deduction—for the cost of college tuition for couples making up to $120,000, or individuals up to $90,000.

This is a genuine benefit for the middle class, and we do exactly what the Republican bill does. The way in which we get the money is restrict the growth of tax expenditures.

Mr. DOMENICI. Mr. President, has there been a motion to table?

The PRESIDING OFFICER. No. Mr. DOMENICI. I yield back any time I have. I move to table the Biden amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. Yeas and nays were ordered. The PRESIDING OFFICER. The question is on the motion to table. The clerk will call the roll. The assistant legislative clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

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

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So, the motion to lay on the table the motion to commit was agreed to. Mr. DOMENICI. Mr. President, I move to reconsider the vote. Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table the motion was agreed to.

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<th>AMENDMENT NO. 2976</th>
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| The PRESIDING OFFICER. The motion occurs on amendment No. 2976 offered by the Senator from North Dakota. The Senator from North Dakota is recognized. Mr. DORGAN. Mr. President, it is an extraordinarily simple amendment. We have in the Tax Code of the United States an incentive, a tax break, a tax deduction for somebody who closes their plant in this country and moves the jobs overseas to a tax haven, produces the same product with foreign workers, then ships the product back to the United States. This simply gets rid of the tax break for companies that move the jobs overseas. If we cannot close this tax loophole, we cannot close any tax loophole. I would hope we will have an affirmative vote on this amendment. The PRESIDING OFFICER. The Senator's time has expired. Mr. DOMENICI. Mr. President. I yield back our time. This amendment contains extraneous material and is not germane and therefore subject to a point of order under the Budget Act. Mr. ExON addressed the Chair. The PRESIDING OFFICER. The Senator from North Dakota. Mr. ExON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the amendment, and I ask for the yeas and nays on the motion to waive. The result was announced, yeas 46, nays 44, as follows:

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The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered. Mr. Dole addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. Dole. This will be the last vote this evening, and we will start voting tomorrow morning at 9:15. The first vote will be on the amendment by Mr. Ford. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will please come to order.

This is the last vote. Senators will please listen.

Mr. Dole. Senator Gramm of Texas. The first vote will come on his amendment, and the first vote will be 20 minutes in length. Then we will go back to our 8 minutes after the first vote. We have had 20 votes today. I wish to thank my colleagues.

Mr. Ford. Mr. President, will the Senator yield? Are we going tomorrow by the schedule of amendments offered? And then we go down that line and then we are on, will be on the last ones?

Mr. Dole. Right. We are going to go down—that is right. Yes. Mr. Ford. We go as introduced. Mr. Dole. Then we go to tier three. Mr. Ford. I thank the Senator. Mr. Dole. Then tier four and tier five.

Mr. Ford. Ten.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the budget act. The yeas and nays are ordered. The clerk will call the roll. The legislative clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:
CONGRESSIONAL RECORD—SENATE
October 26, 1995

S 15832

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Budget Act, I submit a list of material considered to be extraneous under subsections 313(b)(1)(A), (b)(1)(B), and (b)(1)(E) on behalf of the Committee on the Budget.

Section 313(c) of the Budget Act states:

The inclusion or the exclusion of a provision shall be determined by the President. A provision shall be considered extraneous if it is included in a reconciliation bill by virtue of section 5302 or section 401(b) of this Act.

In addition, this list does not represent the Budget Committee's position on the program or policies represented in these provisions or a waiver of a point of order against these provisions. The Budget Act requires the committee to simply identify potential violations under three components of the Byrd rule and the committee has complied with the law.

That a provision appears on this list does not mean it will automatically be deleted by the Byrd rule. A Senator must raise a point of order against the provision and the Byrd Senator may be waived by the Senate on an affirmative vote of 60 Senators.

EXTRANEOUS PROVISIONS—SENATE BILL

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

The motion to lay on the table was agreed to.

List of Extraneous Matter (the Byrd Rule)

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

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

The motion to lay on the table was agreed to.

This list is a compilation of items identified by both the majority and minority staff of the Senate Budget Committee. The staffs did not agree on every item, but the differences were small when one considers the controversial and comprehensive nature of this bill. I want to thank the staff. The Byrd rule has evolved over the past 10 years and identifying those provisions that violate the rule is a very difficult exercise.

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

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

BALANCED BUDGET RECONCILIATION ACT OF 1995—POSSIBLE EXTRANEOUS PROVISIONS: SENATE BILL

(Prepared by the Republican Staff of the U.S. Senate Budget Committee, October 1995)
<table>
<thead>
<tr>
<th>Provision</th>
<th>Comments/Visitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 60316(a)</td>
<td>Findings section regarding maximum mileage reimbursement program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(b)</td>
<td>Purpose of Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(d)</td>
<td>3 month moratorium. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(d)(2) (and 6)</td>
<td>Additional payments to EAs where State plan is modified in 1994. Byrd rule (b)(1)(A): Increases the deficit and committee fails to meet its reconciliation instructions.</td>
</tr>
<tr>
<td>Sec. 6031(b)(5)</td>
<td>Directed Spending Program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(b)(7)</td>
<td>Authority to transfer emergency funds under rules of former States—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(h)</td>
<td>Authority to operate employment placement program with grants—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(i)</td>
<td>Job Placement Performance Set-Aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(j)</td>
<td>Contingency Grant Funds—Byrd rule (b)(1)(A): Increases the deficit and committee fails to meet its reconciliation instructions.</td>
</tr>
<tr>
<td>Sec. 6031(k)</td>
<td>A medicaid plan shall not impose treatment limits on mental illness services. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 6031(n)(2) (and 3)</td>
<td>Authority to transfer grants to Children's Health Insurance Program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 714(c)</td>
<td>ANCRA program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 714(d)</td>
<td>Non-Displacement in Work Activities—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 714(e)</td>
<td>Federal law holding insolvent health care providers onto contracts—Byrd rule (b)(1)(A): Increases the deficit and committee fails to meet its reconciliation instructions.</td>
</tr>
</tbody>
</table>
Mr. EXON. Mr. President, the chair-
man of the Budget Committee was kind
eough to discuss with me in advance
the list that he just submitted for the
Purpose. In turn, have shared with him
by view of which items in the list
violates the Byrd rule against ex-
traordinary matter in reconciliation.

There is a great deal of agreement on
the two lists, but some differences
exist. To make the RECORD
complete, I submit my list of extra-
neous provisions and ask unanimous
consent that it be printed in the
RECORD.

At the close of debate on the bill,
the requirement to publish the
by adopting rules of the House, and
the Senate has not violated the Byrd
rule against extraordinary matter in
reconciliation.

Mr. President, the chair-
<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>11113(b)(8)</td>
<td></td>
<td></td>
<td>No budgetary impact;</td>
</tr>
<tr>
<td>11113(c)(8)</td>
<td></td>
<td></td>
<td>No budgetary impact;</td>
</tr>
<tr>
<td>11113(d)(2)</td>
<td></td>
<td></td>
<td>No budgetary impact;</td>
</tr>
<tr>
<td>1116</td>
<td></td>
<td></td>
<td>Establishes Environmental Incentives Program.</td>
</tr>
<tr>
<td>Subtitle U. Uranium Enrichment Corporation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1121(a)</td>
<td></td>
<td></td>
<td>Ag title not compliance—spends money.</td>
</tr>
<tr>
<td>Subtitle B. 001</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1131</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtitle C. ANWR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1141</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtitle A. Uranium Enrichment Corporation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1151</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtitle 0. Park Entrance Fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1161</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1171</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### BYRD RULE VIOLATIONS, RECONCILIATION 1996

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>7421a(a)</td>
<td>Sale Required. The sale of the Elk Hills, CA site in the NPR.</td>
<td>313(b)(1)(E)</td>
<td>There is a loss of offsetting receipts in the outyears that is not offset with the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003-20 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.</td>
</tr>
<tr>
<td>7421a(d)</td>
<td>Treatment of State of California. Reservation of 7 percent of the sale of the Elk Hills site in the NPR to settle claims with the State of California. Preparing Elk Hills Unit Production Sets requirements for Elk Hills to maintain production 10 percent site is complete.</td>
<td>313(b)(1)(A)</td>
<td>This provision amounts to California's price for waiving its claim to the land within the NPR. This 7 percent set aside does not seem because the operation is subject to appropriations action.</td>
</tr>
<tr>
<td>7421a(h)</td>
<td>Notice to Congress. Establishes a sense of the Congress regarding the Secretary of the Energy's agreement of the Elk Hills site in the NPR.</td>
<td>313(b)(1)(A)</td>
<td>This provision provides no change in revenue or outlays and is thus extraneous.</td>
</tr>
<tr>
<td>7421a(j)</td>
<td>Joint Resolution of Agreement. Provides fast track authority for congressional approval of the sale of the Elk Hills site in the NPR.</td>
<td>313(b)(1)(A)</td>
<td>This provision does not produce any change in revenue or outlays and is thus extraneous.</td>
</tr>
<tr>
<td>7421a(n)</td>
<td>Oversight. Requires the Comptroller General to monitor the sale.</td>
<td>313(b)(1)(A)</td>
<td>This provision does not produce any change in revenue or outlays and is thus extraneous.</td>
</tr>
<tr>
<td>7421a(b)(8)</td>
<td>Sale Required. The sale of sites in the NPR other than that at Elk Hills, CA.</td>
<td>313(b)(1)(A)</td>
<td>There is a loss of offsetting receipts in the outyears beyond 2002 that is not offset within the title. Thus, the provision produces revenue losses in years beyond the years covered in the budget resolution. This provision produces no change in revenue or outlays and is thus extraneous.</td>
</tr>
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</table>

### EXTRANEOUS PROVISIONS, RECONCILIATION 1995

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<thead>
<tr>
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<th>Budget Act Violation</th>
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</tr>
</thead>
<tbody>
<tr>
<td>3002</td>
<td>Deposit Insurance Study. Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.</td>
<td>313(b)(1)(O)</td>
<td>This provision produces no change in revenue or outlays and is thus extraneous.</td>
</tr>
<tr>
<td>3001(d)</td>
<td>Merger of DIF and SIF</td>
<td>313(b)(1)(O)</td>
<td>Has no impact on the deficit.</td>
</tr>
<tr>
<td>4002</td>
<td>Annual Regulatory Fees</td>
<td>313(b)(1)(O)</td>
<td></td>
</tr>
<tr>
<td>4003(b)(16)(B)(i)</td>
<td>Spectrum language p. 207, lines 2-23</td>
<td>313(b)(1)(O)</td>
<td></td>
</tr>
<tr>
<td>4021</td>
<td>Limits on Ogee Guard User Fees</td>
<td>313(b)(1)(O)</td>
<td></td>
</tr>
<tr>
<td>4021(a)</td>
<td>Oil Spill Recovery Initiative</td>
<td>313(b)(1)(O)</td>
<td></td>
</tr>
<tr>
<td>4021(n)</td>
<td>Use of Section 1012 in Alabama</td>
<td>313(b)(1)(O)</td>
<td></td>
</tr>
<tr>
<td>4034</td>
<td>Grade-crossing eligibility</td>
<td>313(b)(1)(O)</td>
<td></td>
</tr>
</tbody>
</table>

### TITLE III: COMMITTEE, COMMERCE, SCIENCE, AND TRANSPORTATION

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>4002</td>
<td>Annual Regulatory Fees</td>
<td>313(b)(1)(O)</td>
<td>Authorizing regulatory fees has no impact on the deficit until after appropriation. (Not in cost estimate)</td>
</tr>
<tr>
<td>4003(b)(16)(B)(i)</td>
<td>Spectrum language p. 207, lines 2-23</td>
<td>313(b)(1)(O)</td>
<td>This language has no impact on spending.</td>
</tr>
<tr>
<td>4021</td>
<td>Limits on Ogee Guard User Fees</td>
<td>313(b)(1)(O)</td>
<td>Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.</td>
</tr>
<tr>
<td>4021(a)</td>
<td>Oil Spill Recovery Initiative</td>
<td>313(b)(1)(O)</td>
<td>Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.</td>
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<td>4021(n)</td>
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<td>4034</td>
<td>Grade-crossing eligibility</td>
<td>313(b)(1)(O)</td>
<td>Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.</td>
</tr>
</tbody>
</table>

### TITLE V: COMMITTEE: ENERGY AND NATURAL RESOURCES

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subtitle A. Uranium Enrichment Corporation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5020</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5044(b)(2) &amp; (7)</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>5013(a)(1)(A)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5013(b)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtitle B. Oil</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5100</td>
<td>California Land Designated Safe</td>
<td>Byrd 313(b)(1)(D)</td>
<td>Savings are merely incidental to the transfer of Federal land (Ward Valley) in the State of California for the purpose of creating a low-level radioactive waste site.</td>
</tr>
</tbody>
</table>

### TITLE VI: COMMITTEE: ARMED SERVICES

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
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<tbody>
<tr>
<td>7421a(a)</td>
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<td>313(b)(1)(A)</td>
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<td>7421a(h)</td>
<td>Notice to Congress. Establishes a sense of the Congress regarding the Secretary of the Energy's agreement of the Elk Hills site in the NPR.</td>
<td>313(b)(1)(A)</td>
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</tbody>
</table>

### EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued
### Section 6020(c)

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chap. 1: Rural Areas</td>
<td>Medicare-dependent, small, rural hospital payment extendeds</td>
<td>3101(b)(10)</td>
<td>Requires the Medicare Dependent Hospital program. Costs $0.4 billion over 7-years.</td>
</tr>
<tr>
<td></td>
<td>Rural Emergency Access Care hospitals</td>
<td>3101(b)(10)</td>
<td>Designates critical access hospitals in rural areas. Costs $2.2 billion over 7-years.</td>
</tr>
<tr>
<td></td>
<td>Additional payments for physicians Services</td>
<td>3101(b)(10)</td>
<td>Establishes new program for FQHC. Costs $2.2 billion over 7-years.</td>
</tr>
<tr>
<td></td>
<td>Payments to physicians assistants and nurse prank</td>
<td>3101(b)(10)</td>
<td>Increases payments to rural, primary care physicians. Costs $2.2 billion over 7-years.</td>
</tr>
<tr>
<td></td>
<td>Medicare and hospital flexibility program</td>
<td>3101(b)(10)</td>
<td>Pays physician assistants and nurse practitioners.</td>
</tr>
<tr>
<td></td>
<td>Demonstration projects for telemedicine</td>
<td>3101(b)(10)</td>
<td>Authorization for demonstration program grants for Telemedicine. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td></td>
<td>ProMed recommendations on urban Medicare dependent hospitals</td>
<td>3101(b)(10)</td>
<td>Directs ProMed to make recommendations on hospitals that have a high number of Medicare patients and patient days. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td></td>
<td>Health Care Fraud and Abuse Prevention</td>
<td>3101(b)(10)</td>
<td>Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td></td>
<td>Establishment of minimum period of exclusion for certain individuals</td>
<td>3101(b)(10)</td>
<td>Requires HIPAA to establish a national fraud and abuse data collection program. Provides on the increase the def.</td>
</tr>
<tr>
<td></td>
<td>Anti-kickback penalties</td>
<td>3101(b)(10)</td>
<td>Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td></td>
<td>Data Collection Program</td>
<td>3101(b)(10)</td>
<td>Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td></td>
<td>Other Provisions for Trust Fund Sevethy</td>
<td>Eligibility age for Medicare</td>
<td>3101(b)(10)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Transfers of A to Part B</td>
<td>3101(b)(10)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Budget Expenditure Limitation Tool (BELT)</td>
<td>3101(b)(10)</td>
</tr>
</tbody>
</table>

**title VI—SPENDING COMMITTEE: FINANCE**

**Compliance in 6 and 7, not in 1**

<table>
<thead>
<tr>
<th>Subtitle B, 791:</th>
<th>Purpose</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2100</td>
<td>Distribution of Strategic Objectives and Performance Goals</td>
<td>3101(b)(10)</td>
<td>Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>2101</td>
<td>Annual reports</td>
<td>3101(b)(10)</td>
<td>Requires states to have an independent entity evaluate its Medicaid plans every three years.</td>
</tr>
<tr>
<td>2102</td>
<td>Special rates</td>
<td>3101(b)(10)</td>
<td>Requires states to include a description of the process under which the plan is to be developed and implemented.</td>
</tr>
<tr>
<td>2103</td>
<td>Periodic, Independent Evaluations</td>
<td>3101(b)(10)</td>
<td>Requires states to identify the content of the independent entity's evaluation.</td>
</tr>
<tr>
<td>2104</td>
<td>Description of Process for Medicaid Plan Development</td>
<td>3101(b)(10)</td>
<td>Requires states to include a description of the process under which the plan is to be developed and implemented.</td>
</tr>
<tr>
<td>2105</td>
<td>Consultation in Medicaid Plan Development</td>
<td>3101(b)(10)</td>
<td>Requires states to include a description of the consultation process under which the plan is to be developed and implemented.</td>
</tr>
<tr>
<td>2106</td>
<td>Advisory Committee</td>
<td>3101(b)(10)</td>
<td>Requires states to include a description of the consultation process under which the plan is to be developed and implemented.</td>
</tr>
<tr>
<td>2110</td>
<td>Medicaid Task Force</td>
<td>3101(b)(10)</td>
<td>Requires states to include a description of the consultation process under which the plan is to be developed and implemented.</td>
</tr>
<tr>
<td>2111</td>
<td>Eligibility and Benefits</td>
<td>3101(b)(10)</td>
<td>Requires states to include a description of the consultation process under which the plan is to be developed and implemented.</td>
</tr>
</tbody>
</table>

EXTRAVAGANZA PROVISIONS, RECONCILIATION 1995—Continued
XEXTRADN PROVISIONS, RECONCILIATION 1995—Continued

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</thead>
<tbody>
<tr>
<td>2711(b)(1)</td>
<td>Elements Relating to Eligibility</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Plans are required to describe limitations on eligibility, eligibility standards, methods of establishing and continuing eligibility and enrollment, the eligibility standards that prohibit the income and resources of a married individual who is living in the community and whose spouse is residing in an inpatient or establishment facility.</td>
</tr>
<tr>
<td>2111(b)(2)</td>
<td>Description of General Elements</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Plans are required to describe the amount, duration and scope of health care services and items covered including differences among population groups; delivery method; under what circumstances for-service benefits are furnished; and cost-sharing for any and utilization incentives.</td>
</tr>
<tr>
<td>2111(b)(3)</td>
<td>Support for Certain Hospitals</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Sets forth criteria for hospitals that are to be eligible for disproportionate share hospital (DSH) payments.</td>
</tr>
<tr>
<td>2111(b)(4)</td>
<td>Immunizations for Children</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Requires plans to provide medical assistance for immunizations for children eligible for medical assistance in accordance with a schedule for immunizations established by the Health Department of the State.</td>
</tr>
<tr>
<td>2111(b)(5)</td>
<td>Family Planning Services</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Plans shall provide family planning services and supplies as specified by State.</td>
</tr>
<tr>
<td>2111(b)(6)</td>
<td>Preventing Condition Exclusions</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Prohibits States from denying coverage to eligible individuals or the family of a person who is excluded from participation in the Medicaid program. In the case of a preventing condition, the State must provide for such coverage through its Medicaid plan.</td>
</tr>
<tr>
<td>2111(b)(7)</td>
<td>Mental Health Services</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Medicaid plans shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or disabilities. The plan may require admission screening, prior authorization of services, or other mechanisms limiting coverage of mental health services to services that are medically necessary.</td>
</tr>
<tr>
<td>2112</td>
<td>Set-asides for Population Groups</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. State plans are required to provide 85 percent of amount spent in FY 1995 on low-income families, families of elderly, and low-income disabled people, medical assistance provided to certain persons. Includes DSH.</td>
</tr>
<tr>
<td>2112(b)</td>
<td>Use of Residual Funds</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Any funds not required to be expended under the set-asides may only be expended for medical assistance for eligible low-income individuals, medically-related services, and administration.</td>
</tr>
<tr>
<td>2113</td>
<td>Premiums and Cost-sharing</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States may not impose cost-sharing on pregnant women and children under 100 percent of poverty for primary or preventive care under the Medicaid plan, unless the charge is waived. States may impose cost-sharing to discourage the inappropriate use of emergency rooms for non-emergency medical services. State may impose premiums and cost-sharing differently.</td>
</tr>
<tr>
<td>2114</td>
<td>Description of Process for Developing Requirements</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. If a state plans to contract with a proposed health care organization, the plan must contain descriptions of the industrial science that will be used to analyze health care expenditures and data. The state qualifications required by the states' laws will be eliminated to contractors, and how waivers will be identified. States must provide public notice about regulation rates unless the information is designated as proprietary and seek public comment. This section contains definitions.</td>
</tr>
<tr>
<td>2115</td>
<td>Construction</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Outlines state flexibility in benefits, provider payments, geographical coverage and selection of providers. Says that states do not have specific responsibilities to beneficiants or providers for particular services or payments for maintenance benefits and payments throughout a state. Provides for flexibility in contracting with managed care providers or case management services.</td>
</tr>
<tr>
<td>2116</td>
<td>Causes of Action</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States that are applicants, beneficiaries, providers, or health plans have a right to sue if a State fails to comply with this law or with the provisions of a Medicaid plan. Provides that no person shall be excluded from participation in any program funded under this title on the ground of sex or religion. Outlines procedures when the recipient of a claim or payment from the State that nothing in this subsection may be construed as affecting any actions brought under State law.</td>
</tr>
<tr>
<td>2117</td>
<td>Treatment of Income and Resources</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Special provisions related to transitional aid. Extends the time in which the Secretary is to set aside 1 percent of the amount to be used for the plan must contain a description of the industrial science that will be used to analyze health care expenditures and data. The state qualifications required by the states' laws will be eliminated to contractors, and how waivers will be identified. States must provide public notice about regulation rates unless the information is designated as proprietary and seek public comment. This section contains definitions.</td>
</tr>
<tr>
<td>2121</td>
<td>Allowance of Funds Among States</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Costs. This section contains the pool of available funds. The section outlines procedures for determining a state's allotment. It provides for allowing states to draw down future allotments in the fiscal year after the cross carry over funds. It sets out procedures for modifying state's allotments and calls for a CAR review of the allotments. This section also contains definitions.</td>
</tr>
<tr>
<td>2122</td>
<td>Payments to States</td>
<td>3130(b)(1)(A)</td>
<td>Sets forth payments to States for medical assistance, medically-related services, and administrative expenses, as retained to the State's Federal medical assistance percentage (FMAP), which are defined. Makes provisions for overpayments. Contains restrictions on provider-related donations and Health care-related taxes; includes a waiver for broad-based health care plans not related to payments.</td>
</tr>
<tr>
<td>2122(g)</td>
<td>Authority to Use Portion of Payment for Other Purposes</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Superseded. Allows State to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1915(d) of the Social Security Act during the new Temp Assurance block grant, SCHIP, Medicaid Title XIX (SSI) and the Food Stamp program. States required to approve or disapprove within 90 days and State are to encourage waivers.</td>
</tr>
<tr>
<td>2123</td>
<td>Improvement on Use of Funds; Disallowance</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. No payments are to be used for payments excluded from participation under other programs including SCHIP block grant, Medicare and Medicaid Title XIX. Defines treatment for party liability. Medicaid is the legitimate payer to any other Federal operated or health care financial program. No payments shall be made in a state for medical assistance furnished to an alien lawfully admitted for permanent residence, except for emergency services, if the alien otherwise is eligible for medical assistance and is not lawfully admitted for permanent residence, except for emergency services.</td>
</tr>
<tr>
<td>2123(g)</td>
<td>Limitation on Payment for Abortion</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. No funds are to be made to a State for an amount expended to pay for any abortion or as part of the plan, in whole or in part, is paid or afforded as medical assistance to or on behalf of the individual who is under the plan. Does not apply in the case of rape or incest or if the woman is likely to have a serious medical condition which endangers the woman's health.</td>
</tr>
<tr>
<td>2123(h)</td>
<td>Treatment of Assisted Suicide</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payments for any drug, biological product or service which is used for the purpose of causing, or assisting in causing, death, suicide, euthanasia, or mercy killing of a person.</td>
</tr>
<tr>
<td>2123(i)</td>
<td>Unqualified Use of Funds</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. No payments shall be used to purchase or improve land or construct or remodel buildings, to pay rent and board except when provided as part of a temporary residence, to provide education services without regard to income, or to provide educational, rehabilitation or other employment and training services available through other programs.</td>
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<tr>
<td>2124</td>
<td>Grant Program for Community Health Centers and Rural Health Clinics</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. The Secretary is to set aside 1 percent of the amount to be used for grants for primary and preventive health care services at rural health clinics and Federal qualified health centers.</td>
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<td>2131</td>
<td>Use of Audits to Achieve Fiscal Integrity</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Requires annual audits of State expenditures. Requires states to adopt and maintain fiscal controls, accounting procedures, and data processing safeguards which are consistent with generally accepted accounting principles. Provides for penalties in the form of reductions of payments to a provider who violates this section.</td>
</tr>
<tr>
<td>2132</td>
<td>Fraud Prevention Program</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have programs to detect and prevent fraud and abuse. Includes program requirements. Requires States to report information about providers excluded from program to the Secretary and State's Medicaid license.</td>
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<td>2133</td>
<td>Information Concerning Sanctions Taken by State Licensing Authorities</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have reporting systems about proceedings against providers.</td>
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<td>2134</td>
<td>Medicaid Fraud Control Units</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have Medicaid fraud units. Organization of unit is specified. It is to provide for collection of overpayments.</td>
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<tr>
<td>2135</td>
<td>Reimbursements from Third Parties and Providers</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Each State plan shall take reasonable steps to ascertain the legal liability of third parties to pay for care and services under the plan. Provides protection for states from secondary liability. Provides penalties in the form of reductions of payments to a provider who violates this section.</td>
</tr>
<tr>
<td>2135(d)</td>
<td>Required Laws Relating to Medical Child Support</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have laws that prohibit insurers from denying enrollment of a child under the health coverage of a parent to the ground that the child is not a citizen or is of unknown parentage or is the child of an unwed parent, is not claimed on the parent's income tax return, or does not reside with the parent or in the issuer's service area. Contains further provisions to assist access to health insurance for kids with divorced parents.</td>
</tr>
<tr>
<td>2135(g)</td>
<td>Estate Recoveries and Liens permitted</td>
<td>3130(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States may make appropriate action to recover from an individual or estate any amounts paid as medical assistance to an individual under the plan. Does not include through the imposition of liens against property or estate. A state may not impose a lien on the principal residence of moderate value or the family farm owned by the individual as a condition of the spouse of the individual receiving long term care.</td>
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**Title III**

**Extraneous Provisions**

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<td>Costs increased to rewards states that reduce out-of-wedlock births</td>
<td>3138(b)(8)</td>
<td>Extraneous: costs. Provides additional funds to states that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the state changes methods of reporting data.</td>
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<td>404(g)</td>
<td>State Option to Deny Assistance in Certain Situations</td>
<td>3138(b)(8)</td>
<td>Extraneous: no cost impact. Nothing should be construed to restrict the authority of a state to limit assistance if the limitation is not inconsistent with the provisions of this part.</td>
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<td>Audits</td>
<td>3138(b)(8)</td>
<td>Extraneous: no cost impact. Requires annual audits on an approved entity which must be submitted to the Secretaries of Treasury and HHS.</td>
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<td>Research, Evaluations, and National Studies</td>
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<td>410(4)</td>
<td>Annual Rating of States and Review of Most and Least Successful Work programs</td>
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<td>Extraneous: no cost impact. Requires Secretary to rank states in order of their success in placing recipients into long-term private sector jobs, including welfare-to-work and diverting individuals from welfare dependency.</td>
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<td>410(a)</td>
<td>Annual Rating of States and Review of Issues Relevant to Requiring in the Use of Child Support</td>
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<td>Extraneous: no cost impact. Requires Secretary to rank states on the basis of out-of-wedlock rates relative to live births and changes in the teen birth rate.</td>
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<td>411</td>
<td>Study by the Census Bureau</td>
<td>3138(b)(8)</td>
<td>Extraneous: no cost impact. Requires Census to expand the survey of income and Program Participation to allow evaluation in a random national sample of recipients. “Secretary shall appropriate from funds not otherwise appropriated.”</td>
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<td>42(13)(C)</td>
<td>Hold harmless</td>
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TITL£ X
COMMITTEE: LABOR AND HUMAN RESOURCES


Extraneous: no direct spending impact. Funds that the CPI overstates the increase in the cost of living in the US, and that the legislation undermines the adequate administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be directed to accurately reflect changes in the cost of living.


Extraneous: no direct spending impact. No budgetary impact.

Out of compliance with year. No budgetary impact.

Extraneous: no direct spending impact. No budgetary impact.

Extraneous: no direct spending impact. No budgetary impact.

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Extraneous: no direct spending impact. No budgetary impact.
AMENDMENTS SUBMITTED
THE BALANCED BUDGET RECONCILIATION ACT OF 1995

KENNEDY (AND OTHERS) AMENDMENT NO. 2599
Mr. KENNEDY (for himself, Mr. SIMON, Mr. PELL, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Ms. FEINSTEIN, Mrs. MURRAY, Mr. KOHL, Mr. BAUCUS, Mr. BINGGING, and Mr. FORD) proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 1409, beginning with line 8, strike all through page 1410, line 23.
On page 1421, beginning with line 15, strike all through page 1423, line 13.
On page 1424, beginning with line 2, strike all through page 1425, line 16.
Strike chapter 3 of subtitle B of title XII.

HUTCHISON (AND OTHERS) AMENDMENT NO. 2860
(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra; as follows:

At the appropriate place, insert the following:
(a) The Senate makes the following findings:
(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.
(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia have been systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.
(3) According to a report by Ms. Leslie C. Jackson, the UN spokesman in Zagreb reported on October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia. Bosnian Serbs are conducting a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.
(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees currently have reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.
(5) The UN spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.
(6) The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 47 indictments on the basis of this evidence.
(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prime facie evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."
(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.
(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremberg" on October 16, 1995, President Clinton cited the "excellent progress of the War Crimes Tribunal for the former Yugoslavia and Spain." Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable.
(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be peace when justice prevails."
(11) SENSE OF THE SENATE.—It is the sense of the Senate that:
(I) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina.
(2) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.
(3) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.
(4) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.
(5) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.
(6) the United States should ensure that any negotiated peace agreements in former Yugoslavia provide for the protection of refugees to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and try over for trial any indicated persons found in their territories.
(7) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.
(8) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.
(9) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.
(10) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.
(11) the United States should ensure that any negotiated peace agreements in former Yugoslavia provide for the protection of refugees to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and try over for trial any indicated persons found in their territories.
(12) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.
(13) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.
(14) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.
(15) the United States should ensure that any negotiated peace agreements in former Yugoslavia provide for the protection of refugees to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and try over for trial any indicated persons found in their territories.

BUAUCOS AMENDMENT NO. 2961
(Ordered to lie on the table.)
Mr. BAUCOS submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

Strike section 1105(d)(III).

KASSEBAUM (AND OTHERS) AMENDMENT NO. 2962
Mrs. KASSEBAUM (for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mrs. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. PRESSLER, Mr. ROTH, Mr. DOMENICI, Mr. KASSEBAUM, Mr. LEVIN, Mr. FORD, Mr. CHAFFEE, and Mr. BACUS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.
On page 1424, beginning with line 2, strike all through page 1425, line 9.

BREAUX (AND KERRY) AMENDMENT NO. 2963
Mr. BREAUX (for himself and Mr. KERRY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1499, beginning on line 1, strike all through page 1471, line 20, and insert the following:
SEC. 12001. CHILD TAX CREDIT.
(a) In general.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section—
(b) Child tax credit.
(1) ALLOWANCE OF CREDIT.—
(1) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 15 percent multiplied by the number of qualifying children of the taxpayer.
(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by paragraph (1) for a taxable year shall not exceed the sum of—
(A) the tax imposed by this subtitle for the taxable year (reduced by the credits allowable against such other than the credit allowable under section 32), and
(B) the taxes imposed by sections 301 and 302(a) and 30 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.
(3) ADJUSTED GROSS INCOME LIMITATION.—The aggregate amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by 25 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $50,000.
(4) QUALIFYING CHILD.—For purposes of this section—
(I) IN GENERAL.—The term "qualifying child" means any individual if—
(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year.
(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins.
(C) such individual bears a relationship to the taxpayer described in section 152(c)(3)(B) (determined without regard to clause (ii) thereof).
(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term "qualifying child" shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows regardless of the United States.
(3) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 152 shall apply for purposes of this section.
(4) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by inserting the item relating to section 35 and inserting the following new items:
Sec. 35. Child tax credit.
Sec. 36. Overpayments of tax.
(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
in accordance with the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1711 et seq.), shall include an assessment and estimate, in a manner consistent with customary property valuation practices in the oil and gas industry, of the fair market value of the interest of the United States in the naval petroleum reserves.

(b) Administration of a Sale.—(I) Except as provided in subparagraph (A) of this subsection, the Secretary shall use for carrying out this section such amounts of the unobligated balances of funds available to the Department of Energy as are necessary to carry out this section.

(c) Joint Resolution Approval.—A joint resolution approving the sale of the interest of the United States in the naval petroleum reserves under this section shall include an assessment and estimate, in a manner consistent with customary property valuation practices in the oil and gas industry, of the fair market value of the interest of the United States in the naval petroleum reserves.

(d) Nondiscretionary Sale.—Not later than 31 days after submission to Congress the report required under subsection (a)(4) and not later than 31 days after submission to Congress the report required under subsection (a)(4) of section 7421a of this title shall be released to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option or, in combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

(e)または旨の文書をもって、米国エネルギー省が、ナパル石油保有地の売却について、次のように述べたropa: 

(b) IMPLEMENTATION OF RECOMMENDATIONS.—(I) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4) and not later than September 30, 1997, the Secretary shall submit to Congress and make available to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option or, in combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

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(d) Nondiscretionary Sale.—Not later than 31 days after submission to Congress the report required under subsection (a)(4) and not later than September 30, 1997, the Secretary shall submit to Congress the report required under subsection (a)(4) of section 7421a of this title shall be released to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option or, in combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.
“(B) In the application of subsection (d) of section 7421a of this title to the sale of the Naval Petroleum Reserves under paragraph (l), the joint resolution of approval which is introduced on or after the date on which the notification to which the joint resolution relates is received by Congress. and—

(1) that does not have a preamble;

(2) the matter after the resolving clause of which reads only as follows: ‘That Congress approves the sale of Naval Petroleum Reserves reported in the notification submitted to Congress by the Secretary of Energy on ___’ (the blank space being filled in with the appropriate date); and

(3) the title of which is as follows: ‘Joint resolution approving the sale of naval petroleum reserves’.

“(D) In the application of subsection (l) of section 7421a of this title to the sale of the Naval Petroleum Reserves under paragraph (l), the joint resolution of approval shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

“Section 7421b (b) (i) and (ii) of title XVIII of this title under paragraph (e) of such section does not apply.

“(1) FUNDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier referred to in section 1816(b) of title XVIII of this title under paragraph (e) of such section shall, with respect to each itemized bill furnished to the beneficiary requesting the itemized bill, and which I supported, takes a similar approach to achieve the same objective. However, my amendment is preferable because it specifically delineates the whistleblower reward process and does not give the Secretary of HHS discretion not to make incentive payments. I hope that the conferees will adopt this amendment. At Medicare town meetings throughout Arizona, I have heard over and over from senior citizens that the Medicare Program is rampant with inaccurate billings. They have told me, based on their personal experiences, that their Medicare bills frequently misstate the services that they have received, double-billing for the same service, or charges that are disproportionate to the value of services received. Often, they have no idea what Medicare is being billed for on their behalf, and they are not able to obtain explanations from providers.

The perceptions of Medicare beneficiaries are confirmed by more systematic analyses. The General Accounting Office has estimated that Medicare and all other Nation’s health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year, which is 10 percent of the program’s costs. A report by the Republican staff of the Senate Committee on Aging has documented a broad array of fraudulent activities, including false claims for services that were supposed to have been rendered after the beneficiaries had died.

The Medicare Program has many problems. A fundamental problem and the source of many other problems, is that too few people are adequately concerned about its costs because the Government is paying most of the bills. One constituent informed me of a situation in which his provider double-billed for the same service and told him not to worry about it because Medicare is paying. This is an outrage and must be stopped. When Medicare overpays, all overpayments become beneficiaries and other taxpayers’ spirals.

This amendment addresses this fundamental problem of the Medicare Program. It gives beneficiaries an added incentive to carefully scrutinize their bills and to actively pursue corrections when they believe that there has been inappropriate billing of Medicare. In particular, beneficiaries would be financially rewarded if they uncover negligence or fraud to the benefit of us all. Although such provider fraud is not the only problem with Medicare, the legislation that I support which also addresses beneficiary fraud, studies
clearly indicate that provider fraud is most prevalent and the greatest concern.

The major problem with our current approach to detecting Medicare fraud is that it relies primarily upon bureaucrats who have no firsthand knowledge of what services were provided to a beneficiary and who have extremely limited time and resources to investigate. This approach can be expected to discover only the most apparent fraud. To discover most fraud, we must obtain the cooperation of those who know what occurred at providers' offices and who have the time to pursue fraud—the beneficiaries. All they need is the ability and incentive to scrutinize their bills and actively correct inaccuracies.

Under this amendment, beneficiaries would have a right to receive in writing from their providers, within 30 days of the time their bill is received, an itemized bill for Medicare services provided to them. The beneficiary would then have 90 days to raise specific allegations of inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have 90 days to review the bills and determine whether an overpayment has been made which must be reimbursed to the Medicare program. The beneficiary would receive a reward of 1 percent of the overpayment reimbursed up to $10,000. Because these rewards would be paid directly out of the overpayments, they would not increase costs to the Federal Government.

There are several important safeguards built into this legislation. The Secretary would be required to establish appropriate procedures to ensure that the incentive system is not abused by overzealous beneficiaries. An incentive payment would be made only if the extent that HCFA is able to recover the overpayment from the provider, and there would be no incentive payment if HCFA can demonstrate that the Medicare intermediary or carrier—has identified the overpayment prior to receiving the beneficiary's complaint.

Some will argue that many seniors and other beneficiaries do not need personal rewards for fighting fraud, and in any event, this is a matter of national duty. While I agree with this contention, I also recognize that these individuals would not be able to identify and report fraud without having access to the itemized bills that this legislation provides. Moreover, I see nothing wrong with giving beneficiaries an added financial incentive. After all, we pay Federal employees for ideas that save the taxpayers money, and we pay private citizens for identifying fraud by defense contractors. Mr. President, there is no inconsistency between this amendment and the Abraham amendment which passed today. Their objectives are entirely compatible. However, the Abraham amendment effectively delegates responsibility for planning the whistle-blower program to the Secretary of HHS. I instead believe that we should fulfill our legislative responsibility by specifying the parameters of this important antifraud program. Otherwise, we should not be surprised if we end up with something that we had not contemplated at all and which does not satisfy our objective.

Mr. President, I will not request a vote on this amendment, because we have already had a vote on the Abraham amendment. However, for the reasons that I outlined, I hope that the conferees will agree that this is a preferable whistleblower provision and that they will adopt it in the conference report. In so doing, I believe that the conferees should retain the provisions of the Abraham amendment that reward individuals for ideas that improve Medicare.

Mr. SANTORUM. Mr. President, I have been trying to get an amendment on the floor so that we can amend the bill. It is very important to have a fraud and abuse control program in place to prevent both beneficial and fraudulent use of Medicare.

Mr. BROWN. Mr. President, I am very conscious of the Committee of the Whole and the time. I am introducing amendment number 2969 as the amendment that I have already had before us. This amendment has been dealt with and agreed to by the Senate. It has been inserted in the bill as a substitute and is found in section 1357 of the Reconciliation Act of 1995.
"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to
impose any duty on the Inspector General except as specifically provided for in this Act.
(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—In making allocations for purpose
purposes of the remuneration is unlawful. and the damages shall
to the Secretary for the costs of the activities
sifered unlawful under section 1123(b)" after "a State health care program".
(C) By adding at the end the following new subsection:
"(F) For purposes of this section, the term
"Federal health care program" means—
(1) any plan or program that provides health care services to individuals covered under title XIX, title X, or the Medicare program, and that is operated in accordance with the provisions of the Federal statute or regulations that govern that plan or program;
(2) any State health care program, as defined in section 11022; or
(3) any State health care program, as defined in section 11022.
"(g)(1) The Secretary and Administrator of the Department of Health and Human Services, and the Inspector General of the Federal Trade Commission may conduct an investigation or audit relating to violations of this section and claims made by the same State health care program, or any other Federal health care program, if the Secretary and Administrator of the Department of Health and Human Services, and the Inspector General of the Federal Trade Commission determine that the investigation or audit is necessary to prevent or correct a significant problem with respect to the Federal health care program.
(2) The Secretary and Administrator of the Department of Health and Human Services, and the Inspector General of the Federal Trade Commission may conduct an investigation or audit relating to violations of this section and claims made by the same State health care program, or any other Federal health care program, if the Secretary and Administrator of the Department of Health and Human Services, and the Inspector General of the Federal Trade Commission determine that the investigation or audit is necessary to prevent or correct a significant problem with respect to the Federal health care program.
SEC. 7110. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a-7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

(i) in connection with the delivery of a health care item or service or

(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)(D)) operated by or financed in whole or in part by any Federal, State, or local government agency,

(2) by striking "shall remain" and inserting "shall (subject to the minimum period specified in subsection (b)(5)) remain", or

(3) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1128(a)(6)) of, an entity—

(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

(B) that has been excluded from participation under a program under title XVIII or under a State health care program.

(3) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdeemeanor".

SEC. 7111. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMANENT EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraph:

"(D) in the case of an exclusion of an individual or entity under paragraph (1) or (2) of subsection (b) for the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that such a longer period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5) the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

SEC. 7112. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest in, or who is an officer or managing employee of, an entity—

(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

(B) that has been excluded from participation under a program under title XVIII or under a State health care program.

SEC. 7113. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(A) by inserting "may prescribe" and inserting "may prescribe, except that such period may not be less than 1 year"; and

(B) by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1) remain".

(2) CONFORMING AMENDMENT.—Section 1156(a)(2) (42 U.S.C. 1320c-5(a)(2)) is amended by adding at the end the following new paragraph:

"(C) In the case of a determination that an individual or entity has not substantially carried out the obligations, the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

(3) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR INPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations"; and

(2) by striking the third sentence.

SEC. 7114. SANCTIONS AGAINST PROVIDERS FOR FAILURES AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR CERTAIN PROFESSIONAL ORGANIZATIONS.—

(1) INDIVIDUAL CONVICTED OF A FELONY.—Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraph:

"(D) in the case of an exclusion of an individual or entity under paragraph (1) or (2) of subsection (b) for the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

(2) CONFORMING AMENDMENT.—Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraph:

"(D) in the case of an exclusion of an individual or entity under paragraph (1) or (2) of subsection (b) for the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128(b)(7) (42 U.S.C. 1320a-7(b)(7)) is amended by adding at the end the following new subparagraph:

"(C) An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.

(b) CIVIL MONETARY PENALTIES.—Section 1128(a)(1) (42 U.S.C. 1320a-7(a)(1)) is amended by adding at the end the following new subparagraph:

"(B) An exclusion imposed under this section is not subject to the automatic stay imposed under subsection (a)(1)."
(A) The Secretary first provides the organiza-
tion with reasonable notice and opportunity to a-
develop and implement a corrective action plan
to correct the deficiencies that were the basis
for the Secretary's determination under para-
graph (I) and the organization fails to develop or
implement such a plan: (B) In deciding whether to impose sanc-
tions, the Secretary shall consider aggravating
factors such as whether an organization has a
history of deficiencies or has not taken ac-
tion to correct deficiencies the Secretary has
brought to its attention; (C) there are no unreasonable or unne-
necessary delays between the finding of a defi-
ciency and the imposition of sanctions; and (D) the Secretary provides the organization
with reasonable notice and opportunity for
hearing (including the right to appeal an initial
decision) before imposing any sanc-
tion or terminating the contract.

(4) CONFORMING AMENDMENTS—Section
1876(i)(1)(B) (42 U.S.C. 1395mm(i)(B)) is
amended by striking the second sentence.

(5) AGREEMENTS WITH PEER REVIEW OR-
GANIZATIONS—Section 1876(i)(7)(A) (42 U.S.C. 1395cc(i)(7)(A)) is amended by
striking “an agreement” and inserting “a written agree-
ment”.

(6) EFFECTIVE DATE—The amendments
made by this section shall apply with respect to
contract years beginning on or after Janu-
ary 1, 1996.

SEC. 7115. APPLICABILITY OF THE BANKRUPT-
CY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS—Section 1128 (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

(5) TO OM REPORTED—The information
reported under this subsection shall be reported regularly
(but not less often than monthly) and in such
form and manner as the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.

(5) TO OM REPORTED—The information
reported under this subsection shall be reported regularly
(but not less often than monthly) and in such
form and manner as the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.

(6) DISCLOSURE AND CORRECTION OF INFOR-
MATION—(I) DISCLOSURE—With respect to the infor-
mation about final adverse actions (not in-
cluding settlements in which no findings of liability have been
made) against health care providers, suppli-
ers, or practitioners as required by sub-
section (B), (c), (d), and (e) of section 1876,
and this subsection shall be reported regularly
(but not less often than monthly) and in such
form and manner as the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.

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mation about final adverse actions (not in-
cluding settlements in which no findings of liability have been
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ers, or practitioners as required by sub-
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and this subsection shall be reported regularly
(but not less often than monthly) and in such
form and manner as the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.

(II) any other negative action or finding
of liability, or the right to apply for or renew a license of the pro-
vider, supplier, or practitioner, whether by
operation of law, voluntary surrender, moratorium, or oth-
er means.

(iii) the term "health care provider, supplier, or practitioner", as defined in section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395cc(i)), means:

(1) an individual who is licensed or otherwise au-
thorized by the State to provide health care services
(autopsy, pathology, radiology, or similar services) and any entity described in section 1861(u) of the Social Security Act (42 U.S.C. 1395(u)), and any person or entity, including any health maintenance organization, group medical practice, or any other entity listed in section 1876(i)(7)(A) of the Social Security Act, that provides health care services.

(2) The term "health care provider" means:

(a) an individual who provides health care services directly, or who directs, manages, or supervises the provision of health care services by others;

(b) a health care provider or entity providing health care services to a Federal or State government agency, or to a health maintenance organization, group practice, or any other entity listed in section 1876(i)(7)(A) of the Social Security Act, that provides health care services.

(3) The term "health care provider" means:

(a) the Secretary shall be responsible for the regulation of the health care services provided by such entities, and the Secretary shall establish an enforcement process to assure that the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.

(5) TO OM REPORTED—The information
reported under this subsection shall be reported regularly
(but not less often than monthly) and in such
form and manner as the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.

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quired to be reported on a date specified by
the Secretary.

(5) TO OM REPORTED—The information
reported under this subsection shall be reported regularly
(but not less often than monthly) and in such
form and manner as the Secretary pre-
scribes. Such information shall first be re-
quired to be reported on a date specified by
the Secretary.
The Department of Health and Human Services.

Any other Federal agency that either administers or provides payment for the delivery of health care services, the forwarding of health care services, or the administration of Federal or State programs that are related to health care services.

The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other entities, or agencies specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

LIMITATION—No person may bring an action under section 3730(b) of title 31, United States Code, if, in the date of filing:

(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

(2) any new information provided in the complaint under such section does not add substantial information beyond those encompassed within the scope of the voluntary disclosure.

PART IV—CIVIL MONETARY PENALTIES

SEC. 7121. SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—

Title 122A (42 U.S.C. 1320a-7a) is amended—

(1) in the third sentence of subsection (a), by striking programs under title XVII and inserting Federal health care program (as defined in section 1128B(b)(1))’;

(2) in subsection (f), by redesigning paragraph (3) as paragraph (4) and:

(A) by inserting after paragraph (2) the following new paragraph:

(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(b)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program if the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Balanced Budget Reconciliation of 1995 (as estimated by the Secretary) shall be deposited into the Hospital Insurance Trust Fund.

(3) In subsection (f), by striking the semicolon at the end of subparagraph (D) and inserting “Federal health care program (as so defined)”;

(b) LIMITATION—NO person may bring an action under section 1128A(a)(1) of title 42, United States Code, if, in the date of filing:

(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

(2) any new information provided in the complaint under such section does not add substantial information beyond those encompassed within the scope of the voluntary disclosure.

(c) EMPLOYER BILLS FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1122A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking “or” at the end of subparagraph (C);

(2) by striking “or” at the end of subparagraph (D) and inserting “or”;

and

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

(1) by adding a new paragraph:

(2) by inserting “or” at the end of paragraph (4) and

(3) by striking the semicolon at the end of subparagraph (D) and inserting “3 times the amount”;

and

(4) by adding paragraph (5) to read as follows:

(a) ESTABLISHMENT OF PROCEDURE.—Section 1123(c) (as defined in section 1126(b)) of, an entity shall be deemed to be references to the Inspector General of the applicable department or agency.

(b) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies, as long as the following conditions are satisfied:

(i) The case involves primarily claims submitted to the Federal health care program of the department or agency initiating the action.

(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with jurisdiction over the Federal health care program to which the claims were submitted.

(c) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under section 1126 of title 42, United States Code, in the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.

(d) EXCLUSIVE INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1122A(a) (42 U.S.C. 1320a-7a)(a) is amended—

(1) by striking “or” at the end of paragraph (1); and

(3) by striking the semicolon at the end of paragraph (3) and inserting “; or”;

and

(4) by inserting after paragraph (3) the following new paragraph:

(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program.

(e) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1122A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking “or” at the end of subparagraph (C);

(2) by striking “or” at the end of subparagraph (D) and inserting “or”;

and

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

(1) by striking “$2,000” and inserting “$10,000”;

and

(2) by inserting “; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs” after “false or misleading information was given”;

and

(3) by striking “twice the amount” and inserting “3 times the amount”;

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCOMPLETE CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1122A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking “claimed,” and inserting “claimed, including any practice in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will not result in greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided;”;

(2) in subparagraph (C), by striking “or” at the end;

(3) in subparagraph (D), by striking “or” and inserting “or”;

and

(4) by inserting after subparagraph (D) the following new subparagraph:
SEC. 1131. HEALTH CARE FRAUD.
(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1347. Health care fraud
(1) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—
(i) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services;
(ii) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1355 of this title), such person may be imprisoned for not more than 20 years, or both. If the violation results in death (as defined in section 1355 of this title), such person may be imprisoned for life, and fined not more than $500,000, or both. 
(b) For purposes of this section, the term ‘health plan’ has the same meaning given such term in section 7001(f) of the Medicare Improvement and Solvency Protection Act of 1995; and
(c) Any person (including any organization), in connection with the delivery of or payment for health care benefits, items, or services of any kind, who knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud any health plan or other person in connection with the delivery of or payment for health care benefits, items, or services, as defined in section 1347(a) of this title, shall be subject to a civil monetary penalty of not more than twice the amount realized from such health care fraud or abuse.
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$1035. False statements relating to health care matters

(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 10 years, or both.

(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.

SEC. 7136. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES

(a) IN GENERAL—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation. audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) FEDERAL HEALTH CARE OFFENSE—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

(c) CRIMINAL INVESTIGATOR—As used in this section the term 'criminal investigator' means any person authorized by a department, agency, or armed force of the United States to conduct or engage in investigations, or inspections for violations of health care offenses.

(b) Clerical Amendment—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

[S 3486. Authorized investigative demand procedures]

(a) AUTHORIZATION—

"(1) In any investigation relating to functions set forth in paragraph (2). the Attorney General or designee may issue a subpoena or other order compelling a person to produce records relating to a Federal health care offense as that term is defined under this title, to any person served with the subpoena and thus produces the materials sought. shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(2) REQUEST IN ACTION AGAINST INDIVIDUALS—(1) Health information about an individual that is disclosed under this section may not be used or disclosed to any person for any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises from or is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health care; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(b) HEALTH PLAN—As used in this section the term means a health plan as defined in section 11285(b)(1) of the Medicare Improvement and Solvency Protection Act of 1995.

(c) Clerical Amendment—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

[S 3486. Authorized investigative demand procedures]
(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which in order to control fraud and abuse in the submission of such claims.

SEC. 7113. UNIQUE PROVIDER IDENTIFICATION

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which in order to control fraud and abuse in the submission of such claims.

SEC. 7114. USE OF NEW PROCEDURES.

SEC. 7151. UNIFORM MEDICARE/MEDICAID BILLING AND ABUSE PREVENTION

SEC. 7161. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS OR SERVICES

Notwithstanding any other provision of law, including any regulation or payment methodology, the following categories of charges shall not be payable under title XVIII of the Social Security Act:

(1) Tuition or other education fees for classes of items and services under this part.

(2) Costs related to team sports.

(3) Personal use of motor vehicles.

(4) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

(a) GENERAL RULE.—Part B of title XIX is amended by inserting after section 1846 the following new section:

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing of such item or service that is sufficient to cover the cost of investigating the information on the application and the individual's suitability for the furnishing of such item or service.

(b) ITEMS AND SERVICES TO BE FURNISHED.—The Secretary may not award a contract to any individual or entity under the competitive acquisition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity other than the supplier with whom the contract is entered into fulfills all of the items and services within a class.

(c) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competitive acquisition conducted pursuant to paragraph (1) shall—

(1) Contain a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area established for such item or service and ensure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

(2) Contain the competitive acquisition area established under subsection (a) for each class of items and services.

(3) CONTROLS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competitive acquisition conducted pursuant to paragraph (1) unless the Secretary finds that the individual or entity fulfillment areas satisfy, as determined by the Secretary, the requirements of section 702 and 703 are satisfied.

(4) Services described.—The items and services to which the provisions of this section apply are as follows:

(1) Durable medical equipment and medical supplies.

(2) Oxygen and oxygen equipment.

(3) Other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended by striking "agency is located in" and inserting "service is furnished, as determined by the Secretary."

(c) WAGE COMPETITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended (A) by striking "or" at the end of paragraph (14); (B) by striking "or" at the end of paragraph (15); and (C) by inserting after paragraph (15) the following new paragraph:

"(16) Where such expenses are for an item or service furnished in a competitive acquisition area as established by the Secretary under section 1847(a) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in such area, the Secretary finds that such expenses were incurred in a case of urgent need."
and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1996, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to and be paid under part B if the item or service had not been furnished through competitive acquisition under such section. The Secretary shall reduce such payment amount by an appropriate percentage as the Secretary determines necessary to result in such a reduction. Notwithstanding this section, in no case may the Secretary reduce payments to an item or service described in this section by more than 10 percent.

The Secretary may apply the provisions of section 1842(b)(9) to the furnishing of medical equipment under part B if the Secretary determines that—

(1) the equipment will be used by Medicare beneficiaries for personal care; and

(2) the equipment is a durable medical equipment item listed in section 1842(b)(9) that is covered under title XVIII of the Social Security Act.

Notwithstanding paragraph (1), the Secretary, in determining the payment amount that would have applied to a nonproprietary, durable, medical equipment item under part B if the Secretary determines that—

(a) the equipment will be used by Medicare beneficiaries for personal care; and

(b) the equipment is a durable medical equipment item listed in section 1842(b)(9) which is covered under title XVIII of the Social Security Act, may apply the provisions of section 1842(b)(9) to payments under this subsection.

A "durable medical equipment item" is an item of durable medical equipment that is a medical device, but does not include a prosthesis, orthotic device, or therapeutic shoe.

The Secretary shall reduce such payment amount by an appropriate percentage as the Secretary determines necessary to result in such a reduction. Notwithstanding this section, in no case may the Secretary reduce payments to an item or service described in this section by more than 10 percent.

The Secretary may require that Medicare carriers not later than 180 days after the date of the enactment of this Act.

The term "Secretary" means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7141. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1314 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(b) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be in use by Medicare carriers not later than 180 days after the date of the enactment of this Act."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments furnished under title XVIII of the Social Security Act on or after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7192. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly pay compensation of up to $10,000 to a person who furnishes information unknown to the Government relating to a potential prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of employment; or

(2) the person knowingly participated in the offense:

(7) the term "Secretary" means the Secretary of Health and Human Services.
of funds available for such programs.

(b) TRANSITIONAL ASSISTANCE. —The
Secretary of Commerce, with the advice of the Administrator of the Services and the Attorney General, may authorize a payment under subsection (a) or the amount authorized shall be subject to judicial review.

MR. MCCAIN (and Other)

AMENDMENT NO. 2971

Mr. McCaskill (for himself, Mr. Feingold, Mr. Thompson, Mr. Kerry, and Mr. Faircloth) proposed an amendment to the bill S. 1357, supra, as follows:

Strike section 1301 and insert the following:

SEC. 1301. ELIMINATION OF MARKET PROMOTION PROGRAM.

(a) IN GENERAL.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is repealed.

(b) TRANSITIONAL ASSISTANCE.—The Secretary of Commerce, with the advice of the Administrator of the Services and the Attorney General, may authorize a payment under subsection (a) or the amount authorized shall be subject to judicial review.

(c) CONFORMING AMENDMENTS.—

(1) Section 211 of the Act (7 U.S.C. 5641) is amended by striking subsection (c).

(2) Section 405(a)(1) of the Act (7 U.S.C. 5652(a)(1)) is amended by striking "203".

(3) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5662 note) is amended.

SEC. 1301A. TERMINATION OF ADVANCED LIGHT-WATER REACTOR PROGRAM.

(a) ADVANCED LIGHT-WATER REACTOR PROGRAM.—(1) The Secretary of Energy shall terminate the Advanced Light-Water Reactor program.

(b) ASPECTS PROVIDED FOR.—(1) The Secretary of Energy may not obligate or expend funds for the program referred to in paragraph (1) except to pay the obligations associated with the termination of that program.

(b) ASSUMPTION OF PROGRAM OPERATIONS.—

(1) The Secretary of Energy shall take appropriate actions to ensure the assumption by a private consortium of the research operations and activities (including the purchase of capital equipment necessary for such operations and activities) under the programs referred to in subsection (a), (1). Such actions may include the obligation and expenditure of funds available for such programs.

SEC. 1301B. TIMBER ACCESS ROADS.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Agriculture and the Secretary of the Interior, in or in connection with an extract for the sale of timber on Federal land, including a road on Federal land, shall require the contractor to pay a fair prorated share for the construction and maintenance of any road that is required to provide access to the timber harvest area.

(b) CONSIDERATIONS.—In determining the share of a contractor under subsection (a), the Secretary of Agriculture and the Secretary of the Interior, respectively, shall consider—

(I) the various uses to which a road will be put, such as providing access to other areas of Federal land for purposes of recreation or maintenance and other purposes; and

(II) the benefit to the public in carrying out the harvest, in the case of a salvage sale or other sale in which the carrying out of the harvest provides a public benefit.
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"(c) MAXIMUM AMOUNT RECOVERED.—The total amount of the nonrecurring costs of research, development, and production recouped from a contractor under this section for particular major defense equipment may not exceed the amount determined by multiplying—

(l) the unit amount computed for such equipment under subsection (b), by

(2) the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount for such equipment sold directly by the contractor to a foreign country or international organization.

(2) WAIVER AUTHORITY.—The President may waive recoupment of up to 50 percent of the unit amount of any nonrecurring costs in- 

volving a demonstration project or program have the meanings applicable to such terms for purposes of section 21 of the Arms Export Control Act (22 U.S.C. 2761(e)(2)).";

"(2) The terms "nonrecurring costs of research, development, and production," "eligible country," and "eligible international organization" have the meanings applicable to such terms for purposes of section 21 of the Arms Export Control Act (22 U.S.C. 2761(e)(2))."

"(3) CLERICAL AMENDMENT.—The table of sections at the beginning of this chapter is amended by inserting in numerical order the following:

"(a) SOURCE OF PAYMENT OF RECOUPMENT.—A contractor may pay amounts to be recouped by the Department of Defense out of any other source of funds available to the contractor, otherwise be a severe impediment to the sale.

(b) UNIT AMOUNT.—For purposes of this section, the unit amount of the nonrecurring costs of research, development, and production of major defense equipment to be recouped from a foreign country or international organization is one-half of the amount that is determined by dividing—

(l) the total amount of such costs that have been incurred by the Department of Defense for such equipment, by

(2) the sum of—

(A) the estimated total number of the units of equipment that will be sold by the contractor directly to eligible foreign countries and international organizations.

(B) the estimated total number of the units of equipment that will be purchased from such contractor by the Department of Defense to recoup from the foreign country or international organization under this section for particular major defense equipment may not exceed the amount determined by multiply-

ing—

(i) the unit amount computed for such equipment under subsection (b), by

(ii) the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount for such equipment sold directly by the contractor.

(c) MAXIMUM AMOUNT RECOVERED.—The total amount of the nonrecurring costs of re-

search, development, and production re-

couped by the Department of Defense for re-

coupment from a foreign country or inter-

national organization under this section for purposes of section 21 of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

(1) in subsection (a), by inserting after section 22410 the following:

"2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by con-

tractors to foreign countries and international organiza-

tions.—

(b) EFFECTIVE DATE.—Section 2410k of title 10, United States Code, as added by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to solici-

tations issued by the Department of Defense for offers for contracts for the procure-

ment of major defense equipment (as defined in such section) on or after that date.

SEC. 1301E. RECOUPMENT OF CERTAIN DEPART-

MENT OF DEFENSE EQUIPMENT SOLD UNDER THE ARMS

EXPORT CONTROL ACT.

(a) RECOUPMENT.—

(1) IN GENERAL.—The Arms Export Control Act is amended by inserting after section 22 the following:

"SEC. 22A. RECOUPMENT OF COSTS: CERTAIN COSTS ASSOCIATED WITH MAJOR DEFENSE EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

"(a) LETTER OF OFFER CLAUSE.—Each let-

ter of offer for the sale of major defense equipment directly by a contractor to a foreign country or international organization shall in- clude a clause that provides for the Depart-

ment of Defense to recoup from the foreign country or international organization the unit amount of any nonrecurring costs in-

curred by the Department of Defense for re-

search, development, and production of such equipment.

(b) UNIT AMOUNT.—For purposes of this section, the unit amount of the nonrecurring costs of research, development, and produc-

tion of major defense equipment to be recouped from a foreign country or inter-

national organization is one-half of the amount that is determined by dividing—

(i) the total amount of such costs that have been incurred by the Department of De-

fense for such equipment, by

(ii) the sum of—

(A) the estimated total number of the units of equipment that will be sold by the

contractor directly to foreign countries and international organizations.

(B) the estimated total number of the units of equipment that will be purchased

from such contractor by the Department of Defense to recoup from the foreign country or international organization under this section for particular major defense equipment may not exceed the amount determined by multiply-

ing—

(i) the unit amount computed for such equipment under subsection (b), by

(ii) the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount for such equipment sold directly by the contractor.

(c) MAXIMUM AMOUNT RECOVERED.—The total amount of the nonrecurring costs of re-

search, development, and production re-

couped by the Department of Defense for re-

coupment from a foreign country or inter-

national organization under this section for purposes of section 21 of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

(1) in subsection (a), by inserting after section 22410 the following:

"2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by con-

tractors to foreign countries and international organiza-

tions.—

(b) EFFECTIVE DATE.—Section 2410k of title 10, United States Code, as added by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to solici-

tions issued by the Department of Defense for offers for contracts for the procure-

ment of major defense equipment (as defined in such section) on or after that date.

SEC. 1301F. WAIVER OF CHARGES TO RECOUP NONRECURRING COSTS FOR MAJOR DEFENSE EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

Section 21(e)(2) of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

(1) by inserting "(A)" immediately after "(2);" and

(2) by adding at the end the following:

"(B) The President may reduce or waive up to 50 percent of the charge or charges which would otherwise be considered appropriate under paragraph (1) if the President deter-

mines that imposition of the full charge or charges would be a severe impediment to the sale of the major defense equipment.

SEC. 1301G. SUSPENSION OF PAYMENT; AND FUNDING FOR HIGHWAY DEM-

ONSTRATION PROJECTS.

(a) IN GENERAL.—Section 6002(c) of the Export-Import Bank Act of 1945 (12 U.S.C. 650(b)(2)) is amended—

(1) by inserting "(A)" immediately after "(2);" and

(2) by adding at the end the following:

"(B) The President may reduce or waive up to 50 percent of the charge or charges which would otherwise be considered appropriate under paragraph (1) if the President deter-

mines that imposition of the full charge or charges would be a severe impediment to the sale of the major defense equipment.

SEC. 1301H. RURAL UTILITIES SERVICE COSTS SAVINGS AND EFFICIENCIES.

Of the funds made available for the Rural Utilities Service, no funds shall be used in the form of a direct and guaranteed electric loan to the Administrator of the Rural Utilities Service to enable any such loan to be spent from the form of a loan for the direct and guaranteed loan to the Administrator of the Rural Utilities Service to enable any such loan to be spent from the form of a loan for the

SEC. 1301I. AMENDMENT TO THE EXPORT-IM-

PORT BANK ACT OF 1945.

The third sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 650(b)(2)) is amended to read as follows:

"The Bank shall consider its average cost of money as one factor in its determina-

tion of interest rates and shall otherwise seek to reduce to the extent feasible the cost of transactions under its loan, guarantee and insurance programs as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 through—

(i) adjustments in fees, repayment terms and other conditions,

(ii) continuation of efforts to reach inter-

national agreements to reduce government subsidized export financing, and

(iii) other methods, where such consider-

ation determines that substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, pro-

vide service consistent with the objectives of the Rural Electric Act of 1936.

SEC. 1301J. PRIVATE SECTOR FUNDING FOR CERT-

AIN RESEARCH AND DEVELOP-

MENT BY NASA RELATING TO AIR-

CRAFT PERFORMANCE.

(a) REQUIREMENT FOR PRIVATE SECTOR FUNDING.—Except as provided in subsection (b), the Administrator of the National Aeronautics and Space Administration may not carry out research and development activi-

ties relating to the performance of aircraft (including any spacecraft or other vehicle or aircraft) unless the Administrator receives payment in full for such activities from the private sector.

(b) EXCEPTIONS.—The limitation set forth in subsection (a) does not apply to any re-

search and development activities referred to in that subsection that are necessary for—

(i) ensuring the safety and security of the national air space system; or

(ii) mitigating the environmental effects of air travel, including the operation of commercial air-
SEC. 1301. AUCTION OF ELECTROMAGNETIC SPECTRUM.

(a) REPEAL OF EXISTING AUTHORITY TO Allocate SPECTRUM.—(1) Subsections (i) and (j) of section 309 of the Communications Act of 1934 (47 U.S.C. 309) are repealed.

(2) No regulation prescribed by the Federal Communications Commission under the authority set forth in such subsection (i) or (j), or under any other provision of law authorizing the Commission to prescribe regulations for the grant of licenses or permits or the use of the electromagnetic spectrum, shall have any further force or effect after the date of enactment of this Act.

(b) GRANT OF LICENSES AND PERMITS BY COMPETITIVE BIDDING.—Such section is further amended by adding at the end the following:

"(1) REQUIREMENT FOR COMPETITIVE BIDDING.—(A) As soon as practicable after the date of enactment of this Act, the Commission shall conduct a competitive bidding to grant licenses for use of electromagnetic spectrum to private parties. (B) During the pendency of such bidding, the Commission may not grant a license or permit covered by subparagraph (A) to any person for use of electromagnetic spectrum to which a license or permit has been granted by the Commission in competition with other persons.

(c) NOTICE AND WAIT REQUIREMENT.—The Commission may not grant a license or permit to use electromagnetic spectrum to an individual who has received notice of an impending auction of electromagnetic spectrum and has not acquired a license or permit prior to the date of auction.

(d) CONTENTS OF NOTICE.—Each notice submitted under subparagraph (C) shall include the following:

(i) The justification for the decision to grant the license or permit in question under this paragraph.

(ii) An estimate of the revenue that the United States will forego as a result of the grant of the license or permit under this paragraph.

(iii) An explanation of the manner in which the license or permit will be granted.

(iv) If the license or permit will be granted under clause (ii) or (iii) of subparagraph (A), an explanation of why the grant of the license or permit under such clause will be more beneficial to the public interest than the grant of the license or permit under paragraph (1).

SEC. 1301L. PROHIBITION PROVISION OF ADEQUATE PROTECTION FOR BOMBER AIRCRAFT.

(a) PROHIBITION.—Notwithstanding any other provision of law, funds available to the Department of Defense may not be obligated or expended to:

(1) procure additional B-2 bomber aircraft in excess of the 20 operational and one prototype B-2 bomber aircraft referred to in paragraph (1) and associated spares and repair parts necessary for those aircraft.

(b) RULE OF CONSTRUCTION.—A provision of law may not be construed as modifying or superseding the prohibition in subsection (a) unless that provision of law:

(1) specifically refers to this section and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

SEC. 1301M. COST SHARING OF GOVERNMENT RESEARCH ASSISTING THE FUEL INDUSTRY.

(a) COST SHARING.—Notwithstanding any other law, the Secretary of Energy shall require that at least 75 percent of the cost of any research and development project under the fuel funds program of the Department of Energy be paid for from non-Federal sources.

(b) TERMINATION AND TRANSFER OF PROJECTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall:

(i) terminate any fuel funds program research and development project that does not meet the cost-sharing requirement of subsection (a); and

(ii) take all necessary actions to transfer any such projects to the private sector.

BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1469, strike lines 12 through 15 and insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 767, strike lines 12 through 15 and insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1469, strike beginning with line 1 and all that follows through page 1660, line 9.

BOND (AND PRIYOR) AMENDMENT NO. 2973

Mr. BOND (for himself Mr. PRIYOR, Mr. DOLE, Mr. DOMENICI, Mr. COVERELL, Mr. STEVENS, and Mr. PRESSLER) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, and insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

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Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

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On page 1553, beginning with line 13, strike all through page 14, line 24, insert:

"BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRIYOR) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1553, beginning with line 13, strike all through page 14, line 24, insert:
At the end of chapter 1 of subtitle I of title XII.

SEC. 12161. REVENUE LOCK BOX.

(a) FINDINGS.—The Senate finds that—

(1) this legislation, as reported by the Senate Committee on the Budget on October 23, 1995, significantly reduces funding for Medicare and Medicaid, student loans, food stamps, and other federal efforts critical to working families across the country, in order to pay for tax breaks to benefit primarily wealthy individuals and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the existing tax deduction for interest paid on home mortgages, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury $420 billion annually, and they estimate that amount will grow by $50 billion to over $480 billion annually.

(4) Congress should reduce the federal budget deficit in a way that is responsible, and that requires shared sacrifice by eliminating many of the special interest tax breaks and loopholes that have been embedded in the tax code for decades, making the tax system fairer, flatter and simpler;

(5) eliminating the special interest tax breaks would enable Congress to do real tax reform, making the system fairer and more simple by flattening the current tax rate structure and eventually providing real tax relief for working families;

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

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

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 938 is amended by adding at the end the following new subsection:

(c) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1996.

(d) REVENUE LOCK BOX.—(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.
Sec. 9711. Expanded civil and criminal forfeiture for violations of the food stamp Act.

Sec. 9712. Expanded authority for sharing information provided by retailers.

Sec. 9713. Expanded definition of "coupon".

Sec. 9714. Doubled penalties for violating food stamp program requirements.

Sec. 9715. Mandatory claims collection methods.

Sec. 9716. Promoting expansion of electronic benefits transfer.

Sec. 9717. Recipient eligibility benefit level.

Sec. 9718. 2-year freeze of standard deduction.

Sec. 9719. Preventing benefits after interruptions in participation.

Sec. 9720. Disqualification for participating in 2 or more States.

Sec. 9721. Disqualification relating to child support arrears.

Sec. 9722. State authorization to assist law enforcement officers in locating fugitive felons.

Sec. 9723. Work requirement for able-bodied recipients.

Sec. 9724. Coordination of employment training programs.

Sec. 9725. Extending current claims retention rates.

Sec. 9726. Nutrition assistance for Puerto Rico.

Sec. 9727. Treatment of children living at home.

CHAPTER 2—COMMODITY DISTRIBUTION

Sec. 9751. Short title.

Sec. 9752. Availability of commodities.

Sec. 9753. State, local and private supplementation of commodities.

Sec. 9754. State plan.

Sec. 9755. Allocation of commodities to States.

Sec. 9756. Priority system for State distribution of commodities.

Sec. 9757. Initial processing costs.

Sec. 9758. Assurances: anticipated use.

Sec. 9759. Authorization of appropriations.

Sec. 9760. Commodity supplemental food program.

Sec. 9761. Commodities not income.

Sec. 9762. Prohibitions against certain State charges.

Sec. 9763. Definitions.

Sec. 9764. Regulations.

Sec. 9765. Finality of determinations.

Sec. 9766. Relationship to other programs.

Sec. 9767. Settlement and adjustment of claims.

Sec. 9768. Repeals: amendments.

CHAPTER 3—OTHER PROGRAMS

Sec. 9781. Child and adult care food program.

Sec. 9782. Resumption of discretionary funding for nutrition education and training program.

Subtitle H—Treatment of Aliens

Sec. 9801. Extension of deeming of income and resources under TANF, SSI, and food stamp programs.

Sec. 9802. Requirements for sponsor’s affidavits of support.

Sec. 9803. Extending requirement for affidavits of support to family-related and diversity immigrants.

CHAPTER 2—INELEGIBILITY OF CERTAIN ALIENS FOR CERTAIN SOCIAL SERVICES

Sec. 9851. Certain aliens ineligible for temporary employment assistance.

Subtitle I—Earned Income Tax Credit

Sec. 9901. Earned income tax credit denied to individuals not authorized to be employed in the United States.

Sec. 10001. Short title; table of contents.
(d) EMPLOYEES OF THE CORPORATION.—(1) PARAGRAPH (1) — Paragraphs (1) and (2) of section 1365(e) (42 U.S.C. 2297b-4(c)(1)(2)) are amended to read as follows:

"...is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees that are transferred, directly or under contract, in the performance of the functions vested in the Corporation...

(ii) by striking "and DETAILEES" in the headnote;..."

(b) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—"(I) RESPONSIBILITY OF THE DEPARTMENT: COSTS.—

(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) at the request of the Corporation...

(b) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1407 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.

(i) PRIVATIZATION OF THE CORPORATION.—

(B) By striking the first sentence;..."

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION:

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation for purposes of leasing and receiving...

(b) TO ENTER INTO CONTRACTS, PERMITS, LICENSES, AUTHORIZATIONS, AND ORDERING SERVICES.—The Secretary, in consultation with the Corporation...

"SEC. 1504. TRANSFER OF ASSETS.

(b) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets to the Corporation established pursuant to this section, including...

"SEC. 1505. ESTABLISHMENT OF PRIVATE CORPORATION.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of 

"SEC. 1506. TRANSFER OF URANIUM.

(a) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1407 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.

(i) PRIVATIZATION OF THE CORPORATION.—

(B) By striking the first sentence;..."

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION:

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation for purposes of leasing and receiving...

(b) TO ENTER INTO CONTRACTS, PERMITS, LICENSES, AUTHORIZATIONS, AND ORDERING SERVICES.—The Secretary, in consultation with the Corporation...

"SEC. 1504. TRANSFER OF ASSETS.

(b) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets to the Corporation established pursuant to this section, including...

"SEC. 1505. ESTABLISHMENT OF PRIVATE CORPORATION.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of 

"SEC. 1506. TRANSFER OF URANIUM.

(a) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1407 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.

(i) PRIVATIZATION OF THE CORPORATION.—

(B) By striking the first sentence;..."
(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1491(b)(2)(B): and

(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation pursuant to section 1403.

(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge with or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further action necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effective in accordance with, and have the effects of, a merger or consolidation under the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits acquired by the surviving corporation pursuant to this section shall apply to the surviving corporation as if it were the Corporation.

(5) INDEBTEDNESS.—(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

(b) OSHA REQUIREMENTS.—For purposes of regulations of the Occupational Health and Safety Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement with the Occupational Safety and Health Administration shall apply to the privatization the same as if the corporation were a Nuclear Regulatory Commission licensee.

(c) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of debt obligation or common stock of the Corporation in connection with the privatization.

(d) BOARD OF DIRECTOR'S ELECTION AFTER PRIVATIZATION.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

"SEC. 1507. Application of privatization proceeds.

"The proceeds from the privatization shall be included in the budget baseline required by section 1401 of the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 252(a)(7) of such Act."

"(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:"


"Sec. 1504. Ownership limitations.

"Sec. 1505. Exemption from liability.

"Sec. 1506. Resolution of certain issues.

"Sec. 1507. Application of privatization proceeds."

"(Section 193 (42 U.S.C. 2243) as amended by adding at the end the following:"

""SEC. 1507. Application of privatization proceeds.

"The proceeds from the privatization shall be included in the budget baseline required by section 1401 of the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 252(a)(7) of such Act."

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"Sec. 1506. Resolution of certain issues.

"Sec. 1507. Application of privatization proceeds."

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"(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:"


"Sec. 1504. Ownership limitations.

"Sec. 1505. Exemption from liability.

"Sec. 1506. Resolution of certain issues.

"Sec. 1507. Application of privatization proceeds."
SEC. 1131. REGULATORY PROGRAM FUND
(a) ESTABLISHMENT—There is established in the Treasury of the United States the 'Army Civil Works Regulatory Program Fund' (hereafter referred to as the 'Regulatory Program Fund') into which shall be deposited fees collected by the Secretary of the Army pursuant to subsection (b) of section 4 of the Atomic Energy Act of 1954 (as added by subsection (d)(2)) as subsection (f).
(b) REGULATORY FEES—
(1) COLLECTION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall establish fees for the evaluation of commercial permit applications, for the recovery of costs associated with the preparation of environmental impact statements required by the National Environmental Policy Act of 1969, and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. The Secretary shall collect such fees and deposit amounts collected pursuant to this paragraph into the Regulatory Program Fund.
(2) FEES.—The fees described in paragraph (1) shall be established by the Secretary at rates that will allow for the recovery of costs at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

SUBTITLE D—HEMEL Reserve
SEC. 1141. OF HELIUM PROCESSING AND STORAGE FACILITY
(a) SHORT TITLE—This section may be cited as the 'Hemel Act of 1995'.
(b) REPEAL.—The provisions of law governing the disposal of helium shall be deemed to be repeated by this Act.
(c) TRANSFER.—Effective one year after the date of enactment of this Act, the Secretary shall cease producing, reprocessing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was required to carry out prior to the date of enactment of the Helium Act of 1995, except those activities described in subsections (a) and (b).
moneys received under this Act for purposes of paragraphs (1) and (2).

Sec. 6. ADJUSTMENT ACCOUNT.—Section 6 is amended as follows:

(a) In General.—Subsection (b) is amended by inserting "crude" before "helium" and adding the following sentence: "Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as would disrupt the market price of crude helium.

(3) Subsection (c) is amended by inserting "crude" before "helium" after the words "Sales of" and by striking "together with interest" as provided in this subsection" and all that follows through the period at the end of such subsection and inserting the following: "such period as the Secretary determines, in 2019. The sales shall be at such times and in such amounts as to be paid amounts in excess of 2,000,000,000 cubic feet (mcf) by January 1, 2024. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out the sale of helium with minimum disruption of the market for crude helium.

(4) (d) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves after the year 2014 shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b) or (c), as the case may be.

(5) (f) REPEAL OF AUTHORITY TO BORROW.—Sections 11 and 15 are repealed.

SEC. 1511. TERMINATION OF ANNUAL DIRECT ASSISTANCE TO NORTHERN MARIANA ISLANDS.

(a) In General.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) ELIMINATION OF 7-YEAR EXTENSIONS.—(1) In the case of the Act, March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) COVERAGE.—(A) Section 5 of the Act, March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking "agreement identified in paragraph (A)" from the Secretary based on—

(ii) by striking "agreement identified in paragraph (A)" after "the Secretary" as provided in subsection (b) or (c), as the case may be.

(3) AMOUNT IN ACCOUNT.—The Secretary shall make payments to producers of the 1994 and 1995 crops of covered commodities that are designated by the Secretary, other feed grains. The term 'covered commodities' means wheat, feed grains, and oilseeds.

(4) PAYMENTS.—The Secretary shall use the proceeds of the shortsale of the covered commodities for purposes of this section and subsection (b) or (c), as the case may be.

(b) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

(c) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

(d) ADJUSTMENT ACCOUNT.—(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCER.—In this subsection, the term 'payment bushel of producer' means—

(A) in the case of a wheat, 7 10 of a bushel;

(B) in the case of corn, a bushel;

(C) in the case of other feed grains, a bushel; and

(D) in the case of other feed grains, a bushel.

(e) IN GENERAL.—The producers on a farm shall be entitled to a payment computed by multiplying—

(i) the payment quantity determined under subparagraph (B); by

(ii) the payment factor determined under subparagraph (C).

(f) ADJUSTMENT ACCOUNT.—(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCER.—In this subsection, the term 'payment bushel of producer' means—

(A) in the case of a wheat, 7 10 of a bushel;

(B) in the case of corn, a bushel; and

(C) in the case of other feed grains, a bushel.

(2) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

(A) $4,500,000,000 for fiscal year 1996; and

(B) $2,800,000,000 for each of fiscal years 1997 through 2002 to remain available until expended.

(g) PAYMENTS.—The Secretary shall use the proceeds of the shortsale of the covered commodities for purposes of this section and subsection (b) or (c), as the case may be.

(h) TIER I SUPPORT.—(1) IN GENERAL.—The producers on a farm shall be entitled to a payment computed by multiplying—

(i) the payment quantity determined under subparagraph (B); by

(ii) the payment factor determined under subparagraph (C).

(i) ADJUSTMENT ACCOUNT.—(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCER.—In this subsection, the term 'payment bushel of producer' means—

(A) in the case of a wheat, 7 10 of a bushel;

(B) in the case of corn, a bushel; and

(C) in the case of other feed grains, a bushel.

(2) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

(A) $4,500,000,000 for fiscal year 1996; and

(B) $2,800,000,000 for each of fiscal years 1997 through 2002 to remain available until expended.

(3) PAYMENTS.—The Secretary shall use the proceeds of the shortsale of the covered commodities for purposes of this section and subsection (b) or (c), as the case may be.

4. (i) the payment quantity determined under subparagraph (B); by

(ii) the payment factor determined under subparagraph (C).
(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary.

(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities and adopting conservation practices to maintain crop acreage bases for soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed or other feed grains, as determined by the Secretary, to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary.

(4) IN GENERAL.—The Secretary shall make available to producers on a farm market loans for each of the 1996 through 2002 crops of covered commodities produced on a farm in excess of the flexible acreage base determined under section 590h(g) for an individual, considering '1997 crop' and '2002':

(A) the loan payment rate by

(B) a limitation on the number of bushels for covered commodities, and adopting conservation practices to maintain crop acreage bases for soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed or other feed grains, as determined by the Secretary, to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary.

(3) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes making loans and payments: the Secretary may not make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

(4) EQUITABLE RELIEF.—If the failure of a producer to comply fully with

(5) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(6) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(e) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(h)) (relating to assignment of payments) shall apply to payments under this section.

(7) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

(8) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.
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(b) INCREASE IN NONPAYMENT ACRES.—Section 102B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "77.5 percent" for each of the years 1996 through 2002 crops.

SEC. 2100. RICE PROGRAM.

(a) Section 101B of the Agricultural Adjustment Act of 1949 (7 U.S.C. 136-1) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(2), (b)(1), (c)(1)(A), (c)(1)(B)(i), (c)(3)(A), (f)(1), (f)(2), (g)(1), and (h), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(3)(D)(i), by striking "1995" and inserting "2002"; and

(4) in subsection (c)(1)(B)—

(i) by striking "1995" and inserting "1996 through 2002"; and

(ii) by striking "1995" and inserting "1995 through 2002";

(b) in subsection (D)—

(i) in clauses (i) and (ii)(III), by striking "1995" each place it appears and inserting "2002"; and

(ii) in the heading of clause (ii)(III), by striking "1995" and inserting "1995 through 2002".

SEC. 2101. SUGARCANE PROGRAM.

(a) Section 101B of the Agricultural Adjustment Act of 1949 (7 U.S.C. 1358-1) is amended—

(A) in section 345 of the Act (7 U.S.C. 1358-5) (as redesignated by section 202(a)(2)(A) of the Act), by striking "1995" and inserting "2002";

(B) by redesignating subparagraph (A) as subparagraph (B) and inserting in such subparagraph—

(1) in clause (i), by striking "1995" and inserting "1996 through 2002";

(2) in clause (ii)(II), by striking "1995" and inserting "1996 through 2002"; and

(3) in clause (ii)(III), by striking "1995" and inserting "1996 through 2002".

(b) in section 346 of the Act (7 U.S.C. 1358-6),—

(A) in the section heading, by striking "1995" and inserting "2002"; and

(B) in subsection (c)(1)—

(i) by striking "1995" and inserting "2002"; and

(ii) by striking "1995" and inserting "2002 through 2002".

(c) in section 347(a)(1)(A)(i)(II) of the Act (7 U.S.C. 1358-10), by striking "1995" and inserting "2002"; and

(d) in section 347(a)(1)(A)(ii) of the Act (7 U.S.C. 1358-10), by striking "1995" and inserting "2002".

SEC. 2102. CENTRAL亞FERTILIZER PROGRAM.

(a) Section 101B of the Agricultural Adjustment Act of 1949 (7 U.S.C. 136-1) is amended by striking "1995" and inserting "2002".

(b) As applied to the crop year 1996, the Secretary of Agriculture shall increase the support rate for each of the 1996 through 2002 crops.

SEC. 2103. DRY FRUIT AND NUT PROGRAM.

(a) Section 101B of the Agricultural Adjustment Act of 1949 (7 U.S.C. 1358-2) is amended—

(A) by redesignating subparagraph (B) as subparagraph (A)

(B) by adding at the end of such section—

"(a) In general.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 25 percent.

(b) For peanuts.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 15 percent.

(c) For nuts.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 25 percent.

SEC. 2104. PEANUT PROGRAM.

(a) in section 101B of the Act (7 U.S.C. 136), by striking "1995" and inserting "2002";

(b) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively.

(c) by adding after such section the following:

"(1) In general.—The Secretary shall carry out this section by

(i) making nonrecourse loans; and

(ii) making marketing loans.

SEC. 2105. DAIRY PROGRAM.

(a) in section 204 of the Agricultural Act of 1949 (7 U.S.C. 1346a) is amended—

(1) in subsection (a), by striking "1995" and inserting "2002";

(l) in subsection (b), by striking "1995" and inserting "2002"; and

(3) in subsection (c)(i)—

(i) by redesignating subparagraph (A) as subparagraph (B) and inserting:

"(A) the Secretary, marketed from the farm and the

(B) the Secretary shall obtain from each processor that

(2) in subsection (b)(2), by striking "1995" and inserting "2002".

(b) in subsection (c)(3) of the Act, by striking "1995" and inserting "2002".

SEC. 2106. SUGAR PROGRAM.

(a) in section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"(c) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the circumstances that may adversely affect domestic sugar production.

SEC. 2107. SNOWBERRY AND SUGARBEET PROGRAM.

(a) in section 207 of the Agricultural Adjustment Act of 1949 (7 U.S.C. 136), by striking "1995" and inserting "2002";

(b) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively.

(c) ADJUSTMENT IN SUPPORT LEVEL.—

(i) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL—

(1) IN GENERAL.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 25 percent.

(ii) For peanuts.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 15 percent.

(iii) For nuts.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 25 percent.

SEC. 2108. TOBACCO PROGRAM.

(a) in section 208 of the Agricultural Adjustment Act of 1949 (7 U.S.C. 136), by striking "1995" and inserting "2002";

(b) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively.

(c) ADJUSTMENT IN SUPPORT LEVEL.—

(i) IN GENERAL.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 25 percent.

(ii) For peanuts.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 15 percent.

(iii) For nuts.—The Secretary shall increase the support price for each of the 1996 through 2002 crops by not less than 25 percent.
REPORT—A sugarcane processor. cane sugar shall be treated as sugar produced from domestic sugar beets or sugar cane harvested in the United States during the 1996 through 2002 fiscal years.

Section 3207—Loans for wool

(a) LOSS—

(1) IN GENERAL.—The Secretary shall, on presentation of a base quality of wool, or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years rescure loans for wool at a loan level, per pound, that is not less than the smaller of—

(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and in the year in which the average price was the lowest in the period;

(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.  

(2) ADJUSTMENTS TO LOAN LEVEL.—

(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The Secretary may not adjust downward under paragraph (1) the loan level for wool, for any marketing year, by more than 50 cents per pound.

B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average price for wool in the designated United States markets for the preceding 36-month period is less than the average United States market price determined under paragraph (b), the Secretary may adjust the loan level to such level as the Secretary may determine to be appropriate as a reflection of the average United States market price determined under paragraph (b).  

Section 3208—Shipment of Wool

(a) USE—The prevailing world market price for wool (adjusted to United States quality and location) shall be used to establish a grade for the wool.  

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332 et seq.) is repealed.

(b) Injury to processors—

(1) DUTY OF PROCESSORS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary shall make quarterly reestimates of sugar and beet sugar yields and acres planted to sugar cane or sugar beets during the fiscal year. The Secretary may adjust downward under this subsection the quantity of sugar to which a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level of sugar marketed.  

(2) PENALTY—Any person willfully failing or refusing to furnish the information, or furnishing false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

Section 3209—Shipments

(a) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332 et seq.) is repealed.

(c) CANCELLATION—Subject to subparagraph (A), the Secretary shall cancel all outstanding assessments.  

(d) MARKETING QUOTAS.—Part VII of sub-
(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under paragraph (a) of this subsection shall be further adjusted if the adjusted prevailing world market price is less than 15 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

(1) The United States share of world exports.

(2) The current level of wool export sales and wool export shipments.

(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information on the most recent average domestic and world market prices for wool.

(E) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

(b) LOAN DEFICIENCY PAYMENTS.—

(i) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

(ii) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

(A) the loan payment rate; by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(c) DEFICIENCY PAYMENTS.—

(i) IN GENERAL.—The Secretary shall make or authorize loan payments under this subsection for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool for the marketing year.

(ii) PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the level at which a loan may be repaid under subsection (b).

(d) DEFICIENCY PAYMENTS.—

(i) IN GENERAL.—The Secretary shall make loan payments on a farm, as a condition of eligibility for loans or payments under this section, to comply with the terms and conditions of the wool program in exchange for any other program operated by the producers.

(ii) LIMITATION ON OUTLAYS.—(I) IN GENERAL.—The Secretary shall make loan payments under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

(2) PERSON LIMITATION.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

(iii) PERSON LIMITATION.—

(A) LOAN PAYMENTS.—No loan payment may be made unless the loan payment is the amount by which the established price for the marketing year (after making loan adjustments) exceeds the loan level determined for the marketing year.

(B) DEFICIENCY PAYMENTS.—No person may receive a loan payment under subsection (a) or (b) that exceed $75,000 during any marketing year.

(e) DEFICIENCY PAYMENTS.—

(i) IN GENERAL.—The Secretary shall make loan payments on a farm as a condition of eligibility for loans or payments under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool for the marketing year.

(f) Equalization of right of producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

(ii) the loan level determined for the marketing year under subsection (b).

(iii) the national average market price related to domestic and world market prices for wool.

(iv) the payment quantity of wool for the marketing year.

(ii) PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(B) the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(f) MARKET PRICE QUOTATION.—The Secretary shall make or authorize loan payments under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool for the marketing year.

(ii) PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(B) the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(f) MARKET PRICE QUOTATION.—The Secretary shall make or authorize loan payments under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool for the marketing year.

(ii) PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(ii) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

(A) the payment rate by

(B) the quantity of wool for the marketing year.

(ii) PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(ii) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

(A) the payment rate by

(B) the quantity of wool for the marketing year.

(ii) PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the level at which a loan may be repaid under subsection (b).

(iii) DEFICIENCY PAYMENTS.—

(A) THE TOTAL AMOUNT OF PAYMENTS.—The total amount of payments made under this section for the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

(A) the payment rate by

(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.
Food Security Act of 1985 (16 U.S.C. 3838 et seq.)—

SEC. 1. (a) Specification of Purpose.—

the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

fore the enactment of this Act: or

provision of law as in effect immediately be-

tion adjustment, or payment program for—

affect the authority of the Secretary of Agri-

other provision of law, this subtitle and the

Title shall apply beginning with the 1996 crop

SEC. 2. EFFECTIVE DATE.

(1) any of the 1991 through 1995 crops of an

Chapter

IN GENERAL—During the 1996 through

2006 fiscal years, the Secretary shall enter

into contracts with the Secretary,

2006 fiscal years, the Secretary shall enter

into contracts with the Secretary to provide

technical assistance under other au-

technical assistance under this chapter shall

suffer cost-sharing payments to construct

an animal waste management facility.

(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for

structural practices within the watershed or region

that the Sec-

terial terrace, grassed waterway, contour grass

means mature dairy cattle, laying hens. broilers. turkeys, swine, sheep, or

lamb.

(5) TECHNICAL ASSISTANCE.—The technical assistance under this chapter shall become effective on

and inserting '2002'.

SEC. 123BA ESTABLISHMENT AND ADMINIS-

TRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—During the 1996 through

SEC. 123BA CONSERVATION PRIORITY AREAS.

(a) IN GENERAL.—The Secretary shall des-

ignate watersheds or regions of special envi-

ronmental sensitivity, including the Ches-

apeake Bay region (located in Pennsylvania,

Maryland, and Virginia), the Great Lakes re-

gion: the Long Island Sound region, prairie

pothole region (located in North Dakota,

South Dakota, and Minnesota), and the Water

Basin (located in Nebraska), and other areas

the Secretary considers appropriate. as con-

servation priority areas that are eligible for

enhanced assistance through the programs

established under this chapter and chapter 1.

(b) APPLICABILITY.—A designation shall be made under this section if the Secretary determines that conditions exist or changes in the environment or other regional circumstances have occurred that make the establishment of a conservation priority area appropriate.
"SEC. 1233C. EVALUATION OF OFFERS AND PAYMENTS."

(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation areas in which the State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1233D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN."

(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

(1) farming or ranching practices on the farm;

(2) characteristics of natural resources on the farm;

(3) specific conservation and environmental objectives to be achieved including those established by the operator in cooperation with Federal and State environmental laws;

(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1233E. LIMITATION ON PAYMENTS."

(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

(1) $10,000 for any fiscal year; or

(2) $50,000 for any multiyear contract.

(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

(1) defining the term "person" as used in subsection (a); and

(2) prescribing such rules as the Secretary determines necessary to ensure a reasonable and appropriate limitation of the limitations contained in subsection (a)."

Subtitle D—Nutrition Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 2401. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and residing in the household)".

SEC. 2402. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATION.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals."

SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

(1) IN GENERAL.—The Commission shall make available to carry out the program established under this section not more than $810,000,000 for fiscal year 1996."

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL REALLOCATION ALLOCATIONS.

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2001, by the Commission of the initial license available under section 309(i) of the Communications Act of 1934 (47 U.S.C. 309(i)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2001.

(2) CRITERIA FOR REALLOCATION.—In making reallocations based on the competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use.

Such notice shall be provided by the Secretary to the Commission pursuant to paragraph (b) of section 309 of the Communications Act of 1934 (47 U.S.C. 309) and to the President, the Commission, and the Permanent Representative of the United States to the International Telecommunications Union.

(4) ADDITIONAL REALLOCATION REPORT.—If the Commission fails to complete the Commission's reallocation pursuant to section 309(i) of the Communications Act of 1934 (47 U.S.C. 309(i)), or to complete such reallocation not later than August 15, 2001, the Commission shall make a report to the Congress and to the Permanent Representative of the United States to the International Telecommunications Union on the Commission's inability to complete such reallocation, including an explanation of such inability.

(5) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended by—

(i) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REQUIREMENT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.

The Commission's notice pursuant to section 114(a)(1) of this Act shall contain such information as is necessary to ensure that such bands of frequencies are suitable for the uses identified in the Commission's notice.

The Federal Communications Commission shall commence the Broadband Personal
Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93-233 (FCC 93-510, released July 18, 1993) not later than December 31, 1993. Such auction shall not later than one year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with the provisions of this section.

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(f)(1) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal years 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to:

"(A) $40,000,000; plus

"(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (1) exceeds $40,000,000.

"(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

"(3) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees that affect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

"(4) Any modified fees established under paragraph (3) shall be derived by determining the full-time equivalent number of employee hours performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines to be necessary in the public interest. The Commission shall—

"(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

"(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

"(5) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.

(2) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section—

"(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out any functions of the Commission.

"(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(3) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g)(1) of such Act is amended by adding, at the end of the portion under the heading 'COMMON CARRIER SERVICES', the following new item:

"23. Personal communications services

(a) Initial or new application .......................... 230

(b) Amendment to pending application .................. 35

(c) Application for assignment or transfer of control ........ 250

(d) Application for renewal of license .................. 35

(e) Request for special temporary authority ............. 200

(f) Notification of completion of construction .......... 35

(g) Request to combine service areas .................. 50.

(4) VANITY CALL SIGNS.—

(A) LIFETIME LICENSE FEES.—

(i) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading 'PRIVATE RADIO SERVICES', the following new item:

"11. Amateur vanity call signs 150.00.

(ii) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be credited to the account providing appropriations to carry out the functions of the Commission.

(5) MODIFICATION OF AGENCY TO WHICH FEE COLLECTIONS ARE TO BE DEPOSITED—Section 8(f)(1) of the Communications Act of 1934 (47 U.S.C. 158(f)(1)) is amended by striking the following item from paragraph (2) and inserting 'Common Carrier Services', the following new item:

"(1) GOVERNMENTAL ENTITIES USE FOR COMMUNICATOR PURPOSES—Section 9(h) of such Act is amended, in the following new sentence:

"(3) The Commission shall in carrying out its functions under this section—

"The exceptions provided in this section shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.

(6) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title 1 of such Act is amended—

"(1) In section 9, by striking subsection (i); and

"(B) by inserting section 9 the following new section:

"Terrestrial television satellite operations 500.
SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.

(a) LIMITATIONS ON TERMS OF ANALOG TELEVISION LICENSES ("REVERSION DATE").—The Commission shall not renew any analog television license for a period that extends beyond the earlier of December 31, 2005, or one year after the date the Commission finds, based on annual surveys conducted pursuant to subsection (b), that at least 95 percent of households in the United States have the capability to receive and display video signals, other than those transmitted pursuant to an analog television license. After such date, the Commission shall not issue any licenses other than advanced television licenses.

(b) ANNUAL SURVEY.—The Secretary of Commerce shall, each calendar year from 1998 to 2002, conduct a survey to estimate the percentage of households in the United States that have the capability to receive and display video signals, other than those transmitted pursuant to an analog television license.

(c) SPECTRUM REVERSION.—The Commission shall ensure that, as analog television licenses expire pursuant to subsection (a), spectrum previously used for the broadcast of television signals is reallocated in such a manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. For purposes of selecting the competitive bidding procedure by May 1, 2002.

(d) MINIMUM SERVICE OBLIGATION.—

(1) PROVISION OF CAPABILITY TO RECEIVE ADVANCED SATELLITE TELEVISION SYSTEMS.—In order to receive advanced satellite television systems, licensees shall:

(A) Inminion to Government regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced satellite television service shall provide each household with the capability to receive and display video signals for advanced television services, if such household requests such capability.

(2) PROVISION OF NONSUBSCRIPTION SERVICES.—Each advanced television service licensee shall provide, at least a minimum of 5 years from the date identified in subsection (a), at least one nonsubscription video service that meets or exceeds minimum technical standards established by the Commission. In setting such minimum technical standards, the Commission shall:


SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) In GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interest of the United States in and to the land and improvements to Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) In GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Governors Island, New York. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(b) DESCRIPTION.—The rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

1. Part of lot 172, square 720.
2. Part of lots 89, 105, and 160, square 720.
3. Part of lot 811, square 717.
4. Proceeds.—Before September 30, 1996, proceeds from the sale of the air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(c) AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1996, the right to purchase for the use of the United States in and to the land and improvements to Governors Island, New York.

(2) AMTARK AIR RIGHTS.

(a) In GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interest of the United States in and to the land and improvements to Governors Island, New York.

(b) DESCRIPTION.—The rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

1. Part of lot 172, square 720.
2. Part of lots 89, 105, and 160, square 720.
3. Part of lot 811, square 717.
4. Proceeds.—Before September 30, 1996, proceeds from the sale of the air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(c) AMTARCK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1996, the right to purchase for the use of the United States in and to the land and improvements to Governors Island, New York.

(2) DESCRIPTION.—The rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

1. Part of lot 172, square 720.
2. Part of lots 89, 105, and 160, square 720.
3. Part of lot 811, square 717.
4. Proceeds.—Before September 30, 1996, proceeds from the sale of the air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(c) AMTARCK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1996, the right to purchase for the use of the United States in and to the land and improvements to Governors Island, New York.

(2) DESCRIPTION.—The rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

1. Part of lot 172, square 720.
2. Part of lots 89, 105, and 160, square 720.
TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (3) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

SEC. 5102. MAXIMUM MORTGAGE AMOUNT FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (b) of the first sentence of section 203(b) of the National Housing Act (12 U.S.C. 1701q(b)(2)(A)) is amended by striking "$35,000" and inserting in lieu thereof "$50,000." The following provisions are not applicable to mortgages for which the amount of the insurance claim to the Secretary is $50,000 or more:

(a) the Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;"

"(B) the mortgagee has modified the mortgage to cure the default and provide for the mortgagee to receive the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and"

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through an entity to which the Secretary has determined to be in the best interests of the appropriate insurance fund;"

(b) the Secretary may provide an alternative to foreclosure of a mortgage for which the amount of the insurance claim to the mortgagee is $50,000 or more and any costs resulting from the mortgage modification;

(c) the Secretary may provide an alternative to foreclosure of a mortgage for which the amount of the insurance claim to the mortgagee is $50,000 or more and any costs resulting from the mortgage modification.

The Secretary may pay the mortgagee, from the appropriate insurance fund (as adjusted annually under such section) for a residence of the applicable size.

SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1701u) is amended by striking "in accordance with any activities that the mortgagee determines to be in the best interests of the appropriate insurance fund and the mortgagor of the amount owed to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary: except that—"

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and"

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary."

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the proceeds of the payment of a mortgage claim on a 1- to 4-family residence that is in default. Any such payment under such program to a mortgagee shall be in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary: except that—"

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and"

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary."

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment of such mortgage of the amount owed to the Secretary.

"(1) ASSIGNMENT.—"

"(I) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment of a mortgage to the Secretary, upon request of the mortgagor of a mortgage on a 1- to 4-family residence under this Act.

"(II) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—"

"(A) the mortgage was in default;"

"(B) the mortgagee has modified the mortgage to cure the default and provide for the mortgagee to receive the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and"

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through an entity to which the Secretary has determined to be in the best interests of the appropriate insurance fund;"

"(2) LIMITATION ON INCREASES.—(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—"

"(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and"

"(ii) in the case of calendar years 1999, 2000, and 2001, 0.3 percentage point.

"(B) APPURtenANCES TO OTHER LAWS.—No provision of law not described in paragraph (5) which is determined to be in the best interests of the appropriate insurance fund and the mortgagor of the amount owed to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary: except that—"

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and"

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary."

(c) INDEX.—The term "index" means the Consumer Price Index and any other index of prices described in this subsection.

"(1) IN GENERAL.—For purposes of determining the amount of benefits described in this subsection which is determined by reference to changes in an index:

"(A) old age, survivors, and disability insurance benefits described in this subsection which is determined by reference to changes in an index:

"(B) the amount of the increase in such benefit described in paragraph (5)—

"(i) after December 31, 1995, with respect to any benefit payable after December 31, 1995. with respect to any benefit described in paragraph (5)—

"(ii) the average such benefit for the preceding calendar year under the program described in paragraph (5) which provides such benefit.
Mr. GORTON. proposes an amendment numbered 2962.

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

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

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

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

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

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

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

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

I yield the floor to the Senator from Vermont.

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

Mr. JEFFORDS. Mr. President, let me briefly remind everybody that a while back, when we were dealing with the budget resolution, 67 of us voted not to cut more than $4 billion out of higher education. This amendment would bring this level closer to where we in the Senate voted earlier this year to be—a $5 billion cut from the $10.8 billion. I remind my colleagues of that. I hate to see anybody be inconsistent with their voting, and since 67 voted for something a little more draconian than this, I hope those Senators will stay with us on this amendment.
SEC. 6103. MATCHING RATE REQUIREMENTS FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES
Section 2002(a)(1) of the Social Security Act [(42 U.S.C. section 1903(a)(1))] is amended by striking "Each State" and all that follows through the period and inserting the following: "(A) Each State shall be entitled to payment from the Federal Government in each fiscal year in an amount equal to the lesser of—
(1) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or
(2) the allotment of the State for the fiscal year under section 1903(a)(1)."

(A) GENERAL.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking paragraph (18) of section 3304(a), as redesignated by paragraph (19) and (20) of section 3304(a), and inserting after paragraph (18) of section 3304(a), as redesignated by paragraph (19) and (20) of section 3304(a)—

(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

(1) NONDISABLED MEDICAID CHILDREN.—The term "non-disabled medicaid children" means an individual entitled to medical assistance under the State plan under this title.

(2) NONDISABLED MEDICAID ADULTS.—The term "non-disabled medicaid adults" means—

(a) the number of full-year equivalent non-disabled medicaid adults described in subparagraph (B) or (C) of section 1903(a) in the State in the fiscal year,

(b) the per capita medical assistance limit established by subsection (c)(1) for such category of individuals for the fiscal year.

(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The term "non-disabled elderly medicaid beneficiaries" means—

(a) the number of full-year equivalent non-disabled elderly medicaid beneficiaries described in subsection (b)(3) in the State in the fiscal year; and

(b) the per capita medical assistance limit established by subsection (c)(1) for such category of individuals for the fiscal year.

(4) DISABLED MEDICAID BENEFICIARIES.—The term "disabled medicaid beneficiaries" means—

(a) the number of full-year equivalent disabled medicaid beneficiaries described in subsection (b)(4) in the State in the fiscal year; and

(b) the per capita medical assistance limit established by subsection (c)(1) for such category of individuals for the fiscal year.

(5) ADMINISTRATIVE EXPENDITURES.—The term "administrative expenditures", for a State for a fiscal year, is—

(i) the sum of the following:

(A) PREVIOUS EXPENDITURES—The average of the amount of the per capita matchable medical assistance expenditures (determined under paragraph (2)(A)) for such category of medicaid beneficiaries for a State for the fiscal year, divided by the number of beneficiaries in such category:

(B) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES—For purposes of this section—

(i) MEDICAL ASSISTANCE EXPENDITURES—The per capita matchable medical assistance expenditures, for a category of medicaid beneficiaries for a State for a fiscal year, is equal to—

(A) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under paragraphs (1) and (5) of section 1903(a) (other than expenditures excluded under subsection (e) with respect to medical assistance furnished with respect to individuals in such category during the fiscal year, divided by (ii) the number of full-year equivalent individuals in such category in the State in such fiscal year.

(B) PER CAPITA MATCHABLE ADMINISTRATIVE EXPENDITURES—The per capita matchable administrative expenditures, for a State for a fiscal year, is equal to—

(A) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under paragraphs (1) and (5) of section 1903(a) during the fiscal year, divided by (ii) the number of full-year equivalent individuals in any category of medicaid beneficiaries in the State in such fiscal year.

(iii) ROLLING 2-YEAR CPI INCREASE FACTORS.—In this section—

(A) ROLLING 2-YEAR CPI INCREASE FACTOR—For purposes of this section—

(i) FISCAL YEAR 1996.—The transitional applicable increase factor for the fiscal year is 1 plus the percentage by which—

(A) the Secretary's estimate of the average of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

(i) the average of such index for months in the 3 previous fiscal years.

(B) TRANSITIONAL ALLOWANCE FACTORS.—The transitional allowance factor for fiscal year 1996—

(i) for the category of nondisabled medicaid children, is 1.051;

(ii) for the category of nondisabled medicaid adults, is 1.067;

(iii) for the category of nondisabled elderly medicaid beneficiaries is 1.081;
(IV) for the category of disabled medicaid beneficiaries is 1.0; or

(V) for administrative expenses is 1.0.

(iii) Subsequent Fiscal Years for Non-Disabled Children and Adults and for Disabled Categories.—The "transitional allowance factor" for the categories of nondisabled medical adults, and disabled medicaid beneficiaries—

(I) for fiscal year 1977 is 1.01.

(II) for fiscal year 1978 is 1.0.

(iii) Subsequent Fiscal Years for the Elderly and Administrative Expenses.—The "transitional allowance factor" for the categories of disabled medical adults, disabled medicaid beneficiaries and for administrative expenses for fiscal years after fiscal year 1978 is 1.0.

(4) NOTICE.—The Secretary shall notify each State before the beginning of each fiscal year of the per capita limits established under subsection (a) for the State for the fiscal year.

(5) Special Rules and Exceptions.—For purposes of this section, expenditures attributable to the following shall not be subject to the limits established under this section and shall not be taken into account in determining the per capita medicaid assistance limits under subsection (c)(1):

(I) DSH.—Payment adjustments under section 1902(b).

(II) Medicare Cost-Sharing.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(2)).

(III) SERVICES THROUGH INS AND TRIBAL PROVIDERS.—Payments for medical assistance for services described in the last sentence of section 1905(b).

Nothing in this section shall be construed as applying any limitation to expenditures for the purchase and delivery of qualified pediatric vaccines under section 1928.

When establishing limits under this section, the term "medicaid beneficiary" means an individual entitled to medical assistance under the State plan under this title.

(6) Estimations and Notice.—

(I) IN GENERAL.—The Secretary shall—

(A) establish a process for estimating the limits established under subsection (a) for each State at the beginning of each fiscal year and adjusting such estimate during such year; and

(B) notify each State of such process and adjustments referred to in subparagraph (A).

(II) EXEMPTION OF NUMBER OF FULL-YEAR EQUIVALENT INDIVIDUALS.—For purposes of this section, the number of full-year equivalent individuals in each category described in subsection (b) for a State for a year shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not entitled to benefits under a State plan for the entire fiscal year (or are within a group of individuals for only part of a fiscal year), such reports shall take into account only the portion of the year in which they were so entitled or within such group. The Secretary may audit such reports.

(g) Anti-Gaming Adjustment to Reflect Changes in Eligibility.—

(i) Report on Per Capita Expenditures.—If a State makes a change (or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the deletion of individuals eligible for such assistance, the State shall submit to the Secretary with such change such information as the Secretary may require in order to carry out paragraph (2).

(2) Adjustment for Certain Additions.—If a State makes a change described in paragraph (1) that the Secretary believes will result in making medical assistance available to an additional number of individuals within a category described in subsection (b) with respect to whom the Secretary estimates the per capita average medical assistance expenditures will be less than the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits described in such subsection separately with respect to individuals who are eligible for medical assistance without regard to such addition and with respect to the individuals so added.

(3) Adjustment for Certain Deletions.—If a State makes a change described in paragraph (1) that the Secretary believes will result in denying medical assistance to an additional number of individuals (within a category described in subsection (b)) with respect to whom the Secretary believes will not result in denying medical assistance to such addition and with respect to the individuals so added.

(4) CHANGE IN PER CAPITA LIMIT.—The transitional allowance factor for the categories of nondisabled elderly medicaid beneficiaries and for administrative expenses for calendar quarters beginning on or after October 1, 1996 is 1.0.

Subtitle B—Medicaid Managed Care

SEC. 1701. PERMITTING GREATER FLEXIBILITY FOR STATES TO ENROLL BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(a), is amended—

(I) by redesignating section 1932 as section 1933;

(II) by striking paragraph (1) and inserting the following new paragraph:

"(1) The provider meets the requirements of section 1933.

(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title who prepaid payments to such provider are made on an actual cost basis.

(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll such payments with such provider.

(D) The individual is not a special needs individual (as defined in subsection (c))."

(ii) permits an individual to choose an eligible managed care provider—

(i) from among not less than 2 medicaid managed care plans; or

(ii) between a medicaid managed care plan and a primary care case management provider.

(iii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment.

(iv) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have the capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with such provider.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1996.

"SEC. 1702. MANDATORY ENROLLMENT.—

(a) IN GENERAL.—Subject to the succeeding provisions of this section and notwithstanding paragraphs (1), (10), (B), and (23) of section 1902(a), a State may require an individual eligible for medical assistance under the State plan to enroll in an eligible managed care provider as a condition of receiving such assistance and, with respect to assistance furnished by or under arrangements with such provider, to receive such assistance through the provider. If the following provisions are met:

(A) The provider meets the requirements of section 1933.

(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title and prepaid payments to such provider made on an actual cost basis.

(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll such payments with such provider.

(D) The individual is not a special needs individual (as defined in subsection (c))."

"(E) The State—

(i) permits an individual to choose an eligible managed care provider—

(i) from among not less than 2 medicaid managed care plans; or

(ii) between a medicaid managed care plan and a primary care case management provider.

(ii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment.

(iii) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have the capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with such provider.

(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which such individual—"
individual who does not enroll with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(E)(iv) shall—

(A) provide that the State may not enroll an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider, as defined in section 1933(g)(1), or

SEC. 1702. REMOVAL OF BARRIERS TO PROVIDING SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (2 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(b) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the date the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(1) the day after the date of the expiration of the contract; or

(2) the day 1 year after the date of the enactment of this Act.

(c) ENROLLEE TERMS AND CONDITIONS.—The term 'eligible managed care provider' means—

(A) a Medicaid managed care plan; or

(B) a primary care case management provider.

(2) MEDICAID MANAGED CARE PLAN.—The term 'Medicaid managed care plan' means a health maintenance organization, an eligible medical assistance program under a State plan under this title which is in effect on the date the enactment of this Act, or a provider sponsored network or any other arrangement with physicians that provides or arranges for the provision of medical assistance under the State plan under this title in accordance with a contract with the State agency administering the State plan under this title.

(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

(A) IN GENERAL.—The term 'primary care case management provider' means a health care case management provider that—

(i) is a physician, a group of physicians, a health care clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of medical care under the State plan under this title in accordance with a contract with the State agency administering the State plan under this title.

(ii) receives payment on a fee-for-service basis or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost basis, for the provision of health care items and services specified in such contract to enrolled individuals.

(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including coordinating, arranging for, and furnishing such items or services, regardless of whether such contract to such individual are specified in the contract entered into between such provider and State.

(iv) is not an entity that is at risk.

(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that—

(i) is an eligible managed care entity under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual.

(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

(b) ENROLLMENT.—

(1) NONDISCRIMINATION.—An eligible managed care provider may not discriminate on the basis of health status or anticipated need in the enrollment, reenrollment, or disenrollment of individuals eligible to receive medical assistance under a State plan according to the basis of such medical assistance as an eligible managed care provider under this Act (except as permitted by this section) by eliminating such enrollment, reenrollment, or disenrollment of such individuals.

(2) TERMINATION OF ENROLLMENT.—

(A) IN GENERAL.—An eligible managed care provider shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider to terminate such enrollment, or disenroll at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall do so by providing timely notice of the termination to the State agency administering the State plan under this title.

(B) NOTICE OF TERMINATION.—

(1) BY INDIVIDUALS.—Each individual terminating enrollment with an eligible managed care provider under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title.

(2) NOTICE TO PROVIDER.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (1) shall provide timely notice of the termination to the State agency administering the State plan under this title.

(3) NOTICE TO PROVIDER.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (1) shall provide timely notice of the termination to such provider.

(D) REENROLLMENT.—Each State shall establish a process under which an individual terminating enrollment under this paragraph shall be permitted to enroll with another eligible managed care provider and notified of such enrollment.

(E) PROVISION OF ENROLLMENT MATERIALS IN UNDERSTANDABLE FORM.—Each eligible managed care provider shall provide all enrollment materials in a manner and form which may be easily understood by a typical adult enrollee of the provider who is eligible for medical assistance under the State plan under this title.

(3) QUALITY ASSURANCE.—

(a) ACCESS TO SERVICES.—Each eligible managed care provider shall provide all services specified in such contract to such individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual after the date the individual receives notice of enrollment, and shall do so by providing timely notice of the termination to such provider.
under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

(ii) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall submit to the States requests for enrollees for the delivery of medical assistance in a manner which—

"(A) makes such assistance—

"(I) available and accessible to each such individual, within the area served by the provider, with reasonable promptness and in a manner consistent with capacity of the provider; and

"(II) when medically necessary, available and accessible 24 hours a day and 7 days a week.

(b)(1) With respect to assistance provided to an individual other than through the provider, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the provider) if—

(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

(ii) it was not reasonable given the circumstances to seek the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

(b)(2) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

(A) REVIEW OF MEDICAID MANAGED CARE PLAN.—

(1) In general.—Except as provided in subparagraph (B), each Medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan’s contract with the State under section 1932(a)(1)(B).

(2) Authority.—Such review shall specifically evaluate the extent to which the Medicaid managed care plan provides such services in a timely manner.

(III) The rights and responsibilities of enrollees and prior authorization by the primary care case management provider is required: and

(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall—

(i) ensure that medical care is provided to enrollees for which the enrollee and a health care provider to appeal the failure of the plan to cover a service.

(ii) THE PERFORMANCE OF SERVICES PROVIDED BY THE PROVIDER.—

(A) REVIEW AND AUTHORIZATION OF SERVICES.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(i) has an independent organization meeting the requirements described in section 1932(a)(1)(B) that discloses the identity of any individual

(ii) that is an eligible organization with a contract entered into between the State and the plan as a condition of coverage (in accordance with paragraph (A) of paragraph (3)), and

(iii) meets the requirements described in section 1932(a)(1)(B).

PlANS.—

(3) PROVIDING INFORMATION TO MEDICAID MANAGED CARE PROVIDERS.—

(A) REVIEW OF MEDICAID MANAGED CARE PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual independent external review of the timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

(B) PATIENT ENCOUNTER DATA.—

(i) PROVIDE TO THE STATE AT SUCH FREQUENCY AS THE SECRETARY MAY REQUIRE.—(I) Provide complete and timely information concerning the following:

(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required: and

(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required.

(iv) PROVIDE ASSURANCES THAT SUCH ENTITIES AND THEIR PROFESSIONAL PERSONNEL ARE LICENSED AS REQUIRED BY STATE LAW AND QUALIFIED TO PROVIDE MEDICAL CARE TO THE INELIGIBLE POPULATION.

(v) PROVIDE TO THE STATE AT SUCH FREQUENCY AS THE SECRETARY MAY REQUIRE.—(I) Provide complete and timely information concerning the following:

(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall specify requirements for the standards and process under which a Medicaid managed care plan is accredited by an organization meeting the requirements of clause (iii).

(iii) ACCREDITING ORGANIZATION.—An accreditating organization meets the requirements of this subparagraph if the organization—

(I) is a private, nonprofit organization;

(ii) ACCREDITING ORGANIZATION.—An accreditating organization shall—

(iii) meets the requirements of this subparagraph if the organization—

(I) is a private, nonprofit organization;

(ii) (I) exists for the primary purpose of accrediting managed care plans or health care providers; and

(iii) is independent of health care providers or associations of health care providers.

(D) PATIENT ENCOUNTER DATA.—

(i) PROVIDE TO THE STATE AT SUCH FREQUENCY AS THE SECRETARY MAY REQUIRE.—(I) Provide complete and timely information concerning the following:

(ii) INFORMATION TO HEALTH CARE PROVIDERS.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(iii) exists for the primary purpose of accrediting managed care plans or health care providers; and

(iv) is independent of health care providers or associations of health care providers.

(E) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to subparagraph (A) and—

(i) determine whether the entity’s medical care, through sampling of medical records or other appropriate means, for indications of quality of care and appropriate utilization (including overutilization) and treatment,

(ii) review of enrollee inpatient and ambulatory care, including overutilization) and treatment, the items and services specified in such plan’s contract with the State under section 1932(a)(1)(B).

(II) The Secretary shall undertake appropriate followup activities to ensure that the requirements of paragraph (2) are met, that enrollees have access to appropriate followup activities to ensure that the State improves its monitoring and followup activities.

(III) PROVIDING INFORMATION ON SERVICES.—

(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

(i) INFORMATION TO THE STATE.—Each Medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), and timely information concerning the following:

(A) REVIEW OF MEDICAID MANAGED CARE PLAN.—

(1) In general.—Except as provided in subparagraph (B), each Medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan’s contract with the State under section 1932(a)(1)(B).

(2) Authority.—Such review shall specifically evaluate the extent to which the Medicaid managed care plan provides such services in a timely manner.

(iii) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

(II) QUALITY AND TIMELINESS OF, AND ACCESS TO, THE ITEMS AND SERVICES SPECIFIED IN THE CONTRACT.—An external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B)

(b)(3) PROVIDING INFORMATION TO MEDICAID MANAGED CARE PROVIDERS.—

(A) REVIEW OF MEDICAID MANAGED CARE PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

(B) PATIENT ENCOUNTER DATA.—

(i) PROVIDE TO THE STATE AT SUCH FREQUENCY AS THE SECRETARY MAY REQUIRE.—(I) Provide complete and timely information concerning the following:

(ii) INFORMATION TO HEALTH CARE PROVIDERS.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(III) The rights and responsibilities of enrollees.

(iv) PROVIDING INFORMATION ON SERVICES.—

(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

(i) INFORMATION TO THE STATE.—Each Medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), and timely information concerning the following:

(ii) INFORMATION TO HEALTH CARE PROVIDERS.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(II) The identity, location, qualifications, and availability of participating health care providers.

(iii) THE RIGHTS AND RESPONSIBILITIES OF ENROLLEES.—

(1) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

(II) THE PERFORMANCE OF SERVICES PROVIDED BY THE PROVIDER.—

(A) REVIEW AND AUTHORIZATION OF SERVICES.—Each Medicaid managed care plan shall—

(B) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall—

(i) PROVIDE TO THE STATE AT SUCH FREQUENCY AS THE SECRETARY MAY REQUIRE.—(I) Provide complete and timely information concerning the following:

(ii) INFORMATION TO HEALTH CARE PROVIDERS.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(III) The rights and responsibilities of enrollees.

(iv) PROVIDING INFORMATION ON SERVICES.—

(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

(i) INFORMATION TO THE STATE.—Each Medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), and timely information concerning the following:

(ii) INFORMATION TO HEALTH CARE PROVIDERS.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(III) The rights and responsibilities of enrollees.

(iv) PROVIDING INFORMATION ON SERVICES.—

(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

(i) INFORMATION TO THE STATE.—Each Medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), and timely information concerning the following:

(ii) INFORMATION TO HEALTH CARE PROVIDERS.—Each Medicaid managed care plan shall require each primary care case management provider that is a private, nonprofit organization:

(III) The rights and responsibilities of enrollees.
encounter data to identify the health care provider's compliance with the plan's requirements. The plan shall incorporate such information if the procedure does not provide for timely completion of an internal grievance procedure. The plan shall also report, at least annually, the number of encounters with respect to such health care provider.

COMPLAINT.—A Medicaid managed care plan shall:

"(I) submit the data maintained under clause (I) to the State; or

"(II) report to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii)."

"(I) managed care industry standards for—

"(aa) internal quality assurance; and

"(bb) performance measures; and

"(II) any managed care quality standards established by the National Association of Insurance Commissioners; (E) PAYMENTS TO HOSPITALS.—A Medicaid managed care plan shall—

"(I) provide the State, with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically providing health care services in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

"(ii) report to the State at least annually—

"(I) the rates paid by the plan for items and services furnished to such individuals;

"(II) an explanation of the methodology used to compute such rates, and

"(III) a discussion of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a Medicaid managed care plan; and

"(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet such requirements described in clause (ii)(I).

"(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) DELINQUENCY OR UNREASONABLE DELAY IN PAYMENT AS GROUNDS FOR HEARING.—If an eligible managed care provider—

"(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

"(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a Medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(5), but only, with respect to a Medicaid managed care plan, after completion of the internal grievance procedure established by paragraph (1)(a)(ii) or (1)(ii), whichever is applicable (e) MISCELLANEOUS.—

"(I) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF MEDICAID MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each Medicaid managed care provider shall provide that an individual seeking administrative or judicial remedies under the State plan under this title who is enrolled with the provider may not be held liable—

"(A) for the debts of the eligible managed care provider, in the event of the provider's insolvency;

"(B) for services provided to the individual—

"(i) in the event of the provider failing to receive payment from the State for such services; or

"(ii) in the event of a health care provider with a contractual or other arrangement with the eligible managed care provider failing to receive payment from the State or the eligible managed care provider for such services;

"(C) for the debts of any health care provider with a contractual or other arrangement with the provider to provide services to the individual in the event of the insolvency of the health care provider.

"(2) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

"(A) IN GENERAL.—In the case of an enrollee of an eligible managed care provider who is a child with special health care needs—

"(i) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subparagraph (C), the eligible managed care provider shall provide (or arrange to be provided) such assistance in accordance with the treatment plan unless the contract with the eligible managed care provider fails to meet the requirements of section 1876(i)(8).

"(ii) if the rates paid by the plan are lower than the rates paid by the State to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the eligible managed care provider to provide such assistance; or

"(III) if appropriate services are not available through the eligible managed care plan, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the program described in subparagraph (C), the eligible managed care plan shall—

"(I) by referring the enrollee to a pediatric health care provider under subparagraph (A)(i)(II), the Secretary shall consider—

"(aa) internal quality assurance; and

"(bb) performance measures; and

"(II) any managed care quality standards established by the National Association of Insurance Commissioners; (E) PAYMENTS TO HOSPITALS.—A Medicaid managed care plan shall—

"(I) provide the State, with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically providing health care services in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

"(ii) report to the State at least annually—

"(I) the rates paid by the plan for items and services furnished to such individuals;

"(II) an explanation of the methodology used to compute such rates, and

"(III) a discussion of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a Medicaid managed care plan; and

"(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet such requirements described in clause (ii)(I).

"(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) DELINQUENCY OR UNREASONABLE DELAY IN PAYMENT AS GROUNDS FOR HEARING.—If an eligible managed care provider—

"(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

"(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a Medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(5), but only, with respect to a Medicaid managed care plan, after completion of the internal grievance procedure established by paragraph (1)(a)(ii) or (1)(ii), whichever is applicable (e) MISCELLANEOUS.—

"(A) PROTEC

"(1) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

"(B) SECTION 1109.—Subject to subparagraph (C), each Medicaid managed care plan shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the plan, with respect to a service area—

"(I) has the capacity to serve the expected enrollment in such service area;

"(II) offers an appropriate range of services for the population expected to be enrolled in
such service area, including transportation services and translation services consisting of the principal languages spoken in the service area.

which other providers are paid...

on a basis that is comparable to the basis on
between the plans and providers; and

includes in its agreements with other' par-
services are available and accessible.

payment for services provided under title X
(A) and (B). a medicaid managed care plan
defined in section 1905(l)(2)(B).

tion 1905(1) (1).

subparagraph (A):

deemed to have satisfied the requirements of
ship includes a reasonable number (as so de-
primary care providers (as determined by the
that contracts with a reasonable numbe- of

PACITY AND SERVICES—Subject to subpara-
ments relating to access to care as the Sec-
caria may be eligible.

(vii) quality and utilization management:

••(iii) the limitation

(iii) PROHIBITION OF TIE-INS—An eligible
managed care plan may not enter
into a contract with any State under section
1932(a)(1)(B) unless the State has in effect
conflict-of-interest safeguards with respect
contracts and employment relationships
with responsibilities relating to contracts with
such plans or to the default enrollment proc-
described in section 1932(a)(1)(D)(iv) that
are at least as effective as the Federal safe-
guards provided under section 27 of the Office
of Federal Procurement Policy Act (41 U.S.C.
423), against conflicts of interest that apply
with respect to Federal procurement offi-
cials with comparable responsibilities with
respect to such contracts.

REQUIREING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any require-
ments applicable under section 1902(a)(27) or
1902(a)(33), a medicaid managed care plan
shall—

report to the State (and to the Sec-
arity upon the Secretary's request) such fi-
ancial information as the State or the Sec-
ity may require to demonstrate that
(I) the plan has the ability to bear
the risk of potential financial losses and other-
wise has a fiscally sound operation;
(II) the information the plan uses the funds paid to it by the
State or funds received under agreements consistent with the requirements of this
title and the contract between the State and

the plan does not place an individual
physician, group, or other health care
provider at substantial risk (as deter-
moved by the Secretary) for services not pro-
vided by such physician, group, or health
provider, by providing adequate protec-
tion (as determined by the Secretary) to
avoid the likelihood of such physician, group,
or health care provider, through measures
such as stop loss insurance or appropriate

(ii) agree that the Secretary and the
State (or any person or organization des-
gnated by either) shall have the right to
audit and inspect any books and records
(State (or any person or organization des-

(i) the information...sive); or

(ii) EFFECT OF NONCOMPLIANCE—If a State
determines that the provider intentionally dis-
tricts under this title if the State deter-
dent is under contract with the State and the

(iii) PROHIBITION OF TIE-INS.—An eligible
managed care plan may not enter
into a contract with any State under section
1932(a)(1)(B) unless the State has in effect
conflict-of-interest safeguards with respect
contracts and employment relationships
with responsibilities relating to contracts with
such plans or to the default enrollment proc-
described in section 1932(a)(1)(D)(iv) that
are at least as effective as the Federal safe-
guards provided under section 27 of the Office
of Federal Procurement Policy Act (41 U.S.C.
423), against conflicts of interest that apply
with respect to Federal procurement offi-
cials with comparable responsibilities with
respect to such contracts.

(ii) the information required to be dis-
closed under sections 1124 and 1128

(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in
clause (i), the Secretary shall consider—

(iii) MODEL CONTRACT ON SOLVENCY—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among such risk contracting entities including whether such an entity is at risk for inpatient hospital services.

SEC. 7105. ASSURING ADEQUATE PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 1901, 7101(a), and 7102(c), is further amended—

(a) by redesignating section 1934 as section 1935;

(b) by inserting after section 1933 the following new section:

"SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions to include any of the types described in subsection (b) other than the termination of a contract with an eligible managed care provider, which the State may impose against an eligible managed care provider with a contract under section 1932(a)(i)(B) if the provider—

(1) fails to substantially to provide medically necessary items and services that are required (under law or under such provider’s contract with the State) to be provided to an enrollee covered under the contract if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee;

(2) imposes premiums on enrollees in excess of the premiums under the contract; or

(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to enroll an individual, except as permitted under sections 1932 and 1933, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the provider of enrollees whose medical condition or history indicates a need for substantial future medical services;

(4) misrepresents or falsifies information that is furnished;

(5) fails to comply with the requirements of section 1976(b)(1); or

(6) fails to substantially to provide items and services that are specifically necessary.

(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

(1) Civil money penalties as follows:

(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of subsection (a). The excess amount charged shall be deducted from the penalty and returned to the individual concerned.

(2) Subsection (b)(2), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

(3) The appointment of temporary management to oversee the operation of the eligible managed care provider and to assure the health of the provider’s enrollees. If there is need for temporary management where—

(A) there is an orderly termination or reorganization of the eligible managed care provider; or

(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the eligible managed care provider has the capability to ensure that the violations shall not recur.

(4) Permitting individuals enrolled with the eligible managed care provider to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

(c) TREITMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of this section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3).

(d) AUTHORITY TO TERMINATE CONTRACT.—

In the case of an eligible managed care provider which has failed to meet the requirements described in paragraph (a), the State has the authority to terminate its contract with such provider under section 1932(a)(i)(B) unless the provider’s enrollees with other eligible managed care providers have the opportunity to receive medical assistance under the State plan under this title through an eligible managed care provider.

(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY—

INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that—

(A) an eligible managed care provider with a contract under section 1932(a)(i)(B) fails to meet any of the requirements of section 1932 or 1933; and

(B) the State has failed to act appropriately to address such failure.

(f) DUE PROCESS FOR ELIGIBLE MANAGED CARE PROVIDERS—

(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with an eligible managed care provider under section 1932(a)(i)(B) unless the provider is provided with a hearing prior to the termination.

(2) NOTICE TO THE ELIGIBLE MAnAGED CARE PROVIDER OF THE SANCTION.—A State shall provide notice of any sanction imposed under section 1932(a)(i)(B) that consists of a civil money penalty or the denial of payments to the eligible managed care provider described in subsection (b) that has implications for the payment of benefits, and the effective date of such notice shall be (not less than) the date such notice is actually received by the eligible managed care provider.

(3) DUE PROCESS FOR ELIGIBLE MANAGED CARE PROVIDERS AGAINST SANCTIONS IMPOSED BY STATE—Before imposing any sanction against an eligible managed care provider other than termination of the provider’s contract, the State shall provide the provider with notice and such other due process protections as the State may provide, except that a State may not provide an eligible managed care provider with a pretermination hearing before imposing the sanction described in subsection (b)(2).

(4) IMPOSITION OF CIVIL MONEY PENALITIES BY SECRETARY.—The provisions of section 1128B(c) (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128B.

(b) CONFORMING AMENDMENT RELATING TO THE CONTRACT UNDER SECTION 1933(b)(1)(B) OF THE SOCIAL SECURITY ACT.—Section 1933(b)(1)(B) of the Social Security Act, as added by this part, is amended by inserting after "coercion" the following: "or failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee:".
CONGRESSIONAL RECORD—SENATE
SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.
(a) IN GENERAL.—Not later than January 1, 1996, the Secretary of Health and Human Services shall submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representative on the status of quality in the public health service described in section 1902 of such Act (42 U.S.C. 1396a) and the private sector.
S15894

CONGRESSIONAL RECORD—SENATE October 26, 1995

SEC. 7203. DELAY IN APPLICATION OF NEW REQUIREMENTS.

(a) DELAY IN IMPLEMENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no change in law—

(A) which has the effect of imposing a requirement on a State under a State plan under title XIX of the Social Security Act, and

(B) with respect to the Secretary of Health and Human Services is required to issue regulations to implement such requirement, shall take effect until the date the Secretary promulgates such regulation as a final regulation.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a law described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(b) PROHIBITION OF CHANGES IN FINAL REGULATIONS DURING A FISCAL YEAR.—

(1) IN GENERAL.—Except as provided in paragraph (2), any change in a regulation of the Secretary of Health and Human Services relating to the medicicaid program under title XIX of the Social Security Act shall not become effective until the beginning of the fiscal year following the fiscal year in which the change was promulgated.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have the change in a regulation described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(c) SENSE OF CONGRESS REGARDING FEDERAL PAYMENT FOR NEW MEDICAID MANAGEMENT INFORMATION SYSTEMS.—It is the sense of Congress that if a State is required by federal legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under a medicicaid program under title XIX of the Social Security Act, the Federal Government shall provide for full payment of any such additional costs for at least the first two years in which such requirement applies.

SEC. 7204. DEADLINE ON ACTION WAIVERS.

(a) CONSIDERING APPLICATIONS FOR MEDICAID WAxVERS.—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within 30 days after the date of the application, denies the application, and

(2) after the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary within ninety days of such date, denies such application.

(b) MEDICAID WAIVERS.—In this section, the term "medicaid waiver" means the request of a State for a change in a provision of title XIX of the Social Security Act (or of another provision of law that applies to State plans under such title), and includes such a waiver under authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1987, or section 402(a) of the Social Security Amendments of 1987.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the "Commission").

Subsection—The Commission shall be composed as follows:

(1) 2 FEDERAL OFFICIALS.—The President shall appoint 2 official members, one of whom the President shall designate as chairperson of the Commission.

(2) 4 CONGRESSIONAL OFFICIALS.—(A) The Speaker of the House of Representatives shall appoint one Member of the House as a member.

(B) The minority leader of the House of Representatives shall appoint one Member of the House as a member.

(C) The majority leader of the Senate shall appoint one Member of the Senate as a member.

(D) The minority leader of the Senate shall appoint one Member of the Senate as a member.

(3) 6 STATE GOVERNMENT REPRESENTATIVES.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(B) The minority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(4) 6 EXPERTS.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals who are not otherwise serving in a State government and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(B) The President shall appoint 2 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(c) INITIAL APPOINTMENT.—Members of the Commission shall first be appointed not later than February 1, 1996.

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies, offices, or establishments of the United States Government while away from their homes or places of business in the performance of official duties of the Commission.

(3) SUBSISTENCE AND COMPENSATION.—Members of the Commission shall serve without compensation, but shall be entitled to receive per diem in lieu of subsistence, at rates authorized for employees of agencies, offices, or establishments of the United States Government while away from their homes or places of business in the performance of official duties of the Commission.

(e) STAFF.—(A) The President shall appoint a staff director who shall serve without compensation, but shall be entitled to receive per diem in lieu of subsistence, at rates authorized for employees of agencies, offices, or establishments of the United States Government while away from their homes or places of business in the performance of official duties of the Commission.

(2) SUBSEQUENT APPOINTMENTS.—The President shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

(F) METHODS OF CONTAINING FEDERAL AND STATE COSTS.—(A) Changes needed to ensure adequate access to health care for low-income individuals, (B) promotion of quality care,

(C) deterrence of fraud and abuse,

(D) providing States with additional flexibility in implementing their medicaid plans,

(E) METHODS OF CONTAINING FEDERAL AND STATE COSTS.

(b) REPORTS.—

(1) FIRST REPORT.—The Commission shall issue a first report to Congress by not later than December 31, 1996.

(2) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

SEC. 7303. ADMINISTRATION.

(a) APPOINTMENT OF STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall have an executive director who shall be appointed by the Chairperson with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the Executive Director may appoint and determine the compensation for such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of subchapter 51 and subchapter 9 of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(b) PROVISION OF ADMINISTRATIVE SUPPORT SERVICES BY HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $3,000,000 for the fiscal year 1996, $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

SEC. 7305. TERMINATION.

The Commission shall terminate on December 31, 1998.

Subtitle E—Restrictions on Disproportionate Share Payments

SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) TARGETING PAYMENTS.—Section 1923 of the Social Security Act (42 U.S.C.1396r-3) is amended—

(1) by striking (a)(1)—

(A) by redesigning subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(i)" and inserting "(I)" and

(C) by adding at the end the following:

"(ii) In order to be considered to have met the requirements of clauses (i) and (ii),";

(2) (A) by redesigning subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(i)" and inserting "(I)" and

(C) by adding at the end the following:

"(ii) In order to be considered to have met the requirements of clauses (i) and (ii),";

(3) by striking subsection (b)(1)(B) in lieu of the definition of such hospitals specified in sub-paragraph (i) and inserting "(i)(A)".

(3) (A) by redesigning subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(i)" and inserting "(I)" and

(C) by adding at the end the following:

"(ii) In order to be considered to have met the requirements of clauses (i) and (ii),";

(4) (A) by redesigning subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(i)" and inserting "(I)" and

(C) by adding at the end the following:

"(ii) In order to be considered to have met the requirements of clauses (i) and (ii),";

(5) by striking paragraph (c) and inserting the following:

"(c) The President shall by March 31, 1998, establish a system for determining payments for disproportionate share hospital services under this subsection. The system shall be based on a per diem rate for disproportionate share hospital services for the fiscal year ending on October 31, 1996, as determined by the Administrator of Medicare and Medicaid Services and shall be updated each year by the percentage change in national medical expenditure per enrollee.";
(d) EFFECTIVE DATE.—The amendments made by this title shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under such section—

(1) July 1, 1996; or

(2) in the case of a State with a State legislature that is not scheduled to have a regular legislative session in 1996, July 1, 1997.

Subtitle F—Fraud Reduction

TITLE VIII—MEDICARE

SECTION 8000. SHORT TITLE. REFERENCES IN TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE—This title may be cited as the "Medicare Preservation Act of 1995."

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act of 1965.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA-1989", "OBRA-1990", "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-508), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-503), the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-64), respectively.

(d) TABLE OF CONTENTS—The table of contents of this title is as follows:

Subtitle A—Medicare Choice Program

PART I—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 8001. Increasing choice under medicare.

Sec. 8002. Medicare Choice program.

PART C—PROVISIONS RELATING TO MEDICARE CHOICE PROGRAMS

Sec. 8151. Requirements for Medicare Choice organizations.

Sec. 8152. Requirements relating to beneficiaries, providers of services, enrollment, and premiums.

Sec. 8153. Patient protection standards.

Sec. 8154. Provider-sponsored organizations.

Sec. 8155. Payments to Medicare Choice organizations.

Sec. 8156. Establishment of standards for Medicare Choice organizations and products.

Sec. 8157. Medicare choice organization certification.

Sec. 8158. Contracts with Medicare Choice organizations.

Sec. 8004. Transition rules for current medicare HMO program.

PART IV—PAYMENT AREAS FOR PHYSICIANS’ SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians’ services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

PART I—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART II—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Updating fees for physicians’ services.

Sec. 8212. Use of real GDP to adjust for volume and intensity.

PART III—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.

Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.

Sec. 8223. Establishment of prospective payment system for outpatient services.

Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.

Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

PART IV—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.

Sec. 8232. Limitation of home health coverage.

Sec. 8233. Reduction in fee schedule for durable medical equipment.

Sec. 8234. Nursing home billing.

Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART V—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

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PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 8001. INCREASING CHOICE UNDER MEDICARE SUBVENTION FUND SOURCES—

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"(b) PROVIDING FOR CHOICE OF COVERAGE—

"(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is entitled to elect a Medicare Choice product offered by a Medicare Choice organization only if the individual is an active, informed selection among such options.

"(2) VOLUNTARILY ELECTING COVERAGE FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is entitled to elect a Medicare Choice product (as defined in section 1852(c)(4)(D)) only if—

"(i) the individual is entitled (as defined in section 1852(c)(4)(D)) to make such election, and

"(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley organization, the individual elected under this section a Medicare Choice product offered by the sponsor during the first enrollment period in which the individual was eligible to make such an election with respect to such sponsor.

"(B) NO REJECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not entitled to elect a Medicare Choice product (as defined in section 1852(c)(4)) by a Medicare Choice organization that is a union sponsor or Taft-Hartley organization if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued enrollment.
benefits under part A and enrolled under part B. Such person may also disenroll in the same manner so that, in the case of an individual who elects a Medicare Choice product during the transition period and thereafter the product becomes effective as of the first date on which the individual may receive such coverage.

(B) TRANSITION PERIOD DEFINED.—In this subsection, the term "transition period" means, with respect to an individual in an area, the period beginning on the first day of the month in which a Medicare Choice product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

(1) DURING TRANSITION PERIOD.—Subject to the provisions of this subsection—

(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE CHOICE OPTION.—During the transition period, an individual who is eligible to make an election under this section, and who has elected the non-Medicare Choice option may change such election to a Medicare Choice option at any time.

(B) TERMINATION BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product during the transition period, in favor of such Medicare Choice product or to the non-Medicare Choice option.

(2) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term "annual, coordinated election period" means, with respect to a calendar year (beginning with 1998) the month of October before such year.

(C) MEDICARE CHOICE HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals who are eligible to elect a Medicare Choice product under this section of the products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

(D) SPECIAL 90-DAY ENROLLMENT OPTION.—

(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may disenroll and change to an individual's coverage under the Medicare Choice product under such option becomes effective.

(B) EFFECT OF DISCONTINUATION OF ELECTRONIC CLAIMS.—An individual who discontinues an electronic claims option under this subsection shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

(3) SPECIAL ELECTION PERIODS.—An individual may continue an election of a Medicare Choice product offered by a Medicare Choice organization other than during an annual, coordinated election period and make a new election under this section if—

(a) a Medicare Choice product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product; or

(b) the individual has elected a Medicare Choice product offered by a Medicare Choice organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(1)(B)).

(C) The individual demonstrates (in accordance with guidelines established by the Secretary) that—

(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual.

(D) The individual meets such other conditions as the Secretary may provide.

(4) EFFECTIVENESS OF ENROLLMENTS.—

(A) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the first date on which the individual is entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838 in order to prevent retroactive coverage.

(B) DURING TRANSITION: 90-DAY ENROLLMENT OPTION.—An election of coverage made under subsection (e)(1) or an election to discontinue a Medicare Choice option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

(C) ANNUAL, COORDINATED ELECTION PERIOD AND MEDICAIS ELECT INSURANCE COVERAGE.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

(D) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

(E) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of this section, an individual who is enrolled under part B may elect a Medicare Choice option under section 1858(a) with respect to an individual electing a Medicare Choice product offered by such organization and issued by an entity acting on the organization's behalf.

(F) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approaches to coordinated open enrollments in different markets, including different annual enrollment periods and models of rolling open enrollment periods. The Secretary may waive previous provisions of this section in order to carry out such project.

SEC. 8002. MEDICARE CHOICE PROGRAM.

(A) In general.—Title XVIII is amended by redesignating part C of chapter 8, and by inserting the following new part:

PART C—PROVISIONS RELATING TO MEDICARE CHOICE

(REQUIREMENTS FOR MEDICARE CHOICE

SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this section, the term "Medicare Choice organization" means a public or private entity acting on the organization's behalf that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

(b) ORGANIZED AND LICENSED UNDER STATE LAW.

"(1) In general.—A Medicare Choice organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice product.

"(2) Exception.—Nothing in this part shall apply to a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(14)).

"(3) Exception for provider-sponsored organizations.—Subject to paragraph (5), paragraph (1) shall not apply to a Medicare Choice organization that is a provider-sponsored organization (as defined in section 1854(a)).

"(4) Exception for qualified associations.—Paragraph (1) shall not apply to a Medicare Choice organization that is a qualified association (as defined in section 1852(c)(14)).

"(5) Limitation.—Effective on and after January 1, 2000, paragraph (1) shall only apply (and paragraph (3) shall no longer apply) to a Medicare Choice organization in a State if the standards for licensed health benefit organizations under the law of the State are identical to the standards established under section 1856(b).

"(B) PREPARE PAYMENT.—The Medicare Choice organization shall earnings the costs of services (other than hospice care) for which benefits are provided to be used provided under section 1852(a)(1)(B)." except that the organization may—

(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $3,000 in any year.

(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members in an area through the organization because medical necessity required their provision before they could be secured through the organization.

(3) may obtain insurance or make other arrangements for not more than 50 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year.

(4) make may arrange with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the risk against which the organization has obtained or may obtain, on behalf of enrolled members, or any combination thereof. The organization shall only make such arrangements for the provision of basic health services for the physicians or other health professionals or institutions through the institution.

(5) In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(14)) or a qualified association (as defined in section 1852(c)(14))—(i) this subsection shall apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1)(A) applies by a provider-sponsored organization (as defined in section 1854(a)).

(e) PROVISION AGAINST RISK OF INSOLVENCY.—

(1) In general.—Each Medicare Choice organization shall meet standards under section 1856 relating to the financial solvency.
and capital adequacy of the organization. Such standards shall take into account the nature and type of Medicare Choice products offered by the organization.

(4) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirements of paragraph (1) with respect to Medicare Choice products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

(5) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Each of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

(A) is licensed by a State agency as an insurer offering health benefits coverage or

(B) is licensed by a State agency as a service benefit plan, but only if the organization is an organized entity that under such law, plan, or contract it offers if—

(B) the dollar amount of payment for such items and services is otherwise provided under parts A and B.

(6) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has met the criteria in subparagraph (A), the liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

(i) if the individual has elected the non-Medicare Choice option, the dollar amount of payment for such items and services otherwise be provided under parts A and B.

(7) ANTI-EMBEZZLEMENT.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits to an individual under this part unless the organization determines that the individual has engaged in embezzlement of any benefits provided through such organization.

(8) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(9) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(10) IN GENERAL.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union or labor organization.

(11) UNION SPONSOR.—In this part and section 1805, the term ‘union sponsor’ means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

(I) has been for purposes other than the sale of any health insurance and does not restrict membership based on the individual’s health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

(II) has applied under the non-Medicare Choice program for a Medicare Choice product to an individual other than pursuant to a collective bargaining agreement.

III has at least 1,000 individual members or 200 employer members.

Such term shall be disregarded when applied to a Medicare Choice organization that is wholly owned by one or more qualified organizations.

(C) UNIONS.—(i) In general.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union.

(ii) In general.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a labor organization.

(iii) In general.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union or labor organization.

(iv) In general.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union or labor organization.

(v) In general.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union or labor organization.

(vi) In general.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union or labor organization.

(12) OTHER EXEMPTIONS.—In the case of benefits furnished through a provider that has met the criteria in subparagraph (A), the liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

(i) if the individual has elected the non-Medicare Choice option, the dollar amount of payment for such items and services otherwise be provided under parts A and B.

(13) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(14) DETERMINATION.—A Medicare Choice organization may not deny, limit, or condition services provided under this section, or under a Medicare Choice product it offers to any individual on the basis that the individual is not a member of a union or labor organization.

(15) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(16) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(17) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(18) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(19) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(20) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(21) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(22) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(23) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(24) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(25) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.

(26) LIMITATION ON TERMINATION OF ELECTION.—A Medicare Choice organization may not terminate the election of any individual under this section if—

(A) the individual is a member of a union or labor organization.

(B) the individual is employed by the organization other than pursuant to a collective bargaining agreement.

(C) the individual is a participating provider.

(D) the individual is an employee of a qualified association.
Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

(F) EMPLOYER, ETC.—In this paragraph, the term 'Employee organization' and 'group health plan' have the meanings given such terms for purposes of part 6 of title B of title I of the Employee Retirement Income Security Act of 1974.

(2) SUBMISSION AND CHARGING OF PREMIUMS

(A) IN GENERAL.—Each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

(B) part B monthly premiums, or a combination of the monthly premiums for coverage under each Medicare Choice product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

(C) the enrollment capacity in relation to the product in each such area.

(3) TOCCAMUNUM PREMIUM—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area under this part may not be greater than the amount as determined under paragraph (3) and submitted under paragraph (1), exceeds

(4) of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

(5) URMlFItTmUJn in relation to the product in each such area.

(6) ToCCAMUNUM PREMIUM CHARGED.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area under this part may not vary among individuals who reside in the same payment area.

(7) TERMS AND CONDITIONS OF IMPOSING PREMIUM DISCOUNT REBATES OR UNIFORM PREMIUMS.—The Medicare Choice organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice product for failure to make premium payments only in accordance with subparagraphs (c)(3)(I) and (c)(3)(B).

(8) RELATION OF PREMIUMS AND COST-SHARING.

(A) IN GENERAL.—In no case may the portion of the Medicare Choice organization's premium rate and the actuarial value of its decisions and capitation rate charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to differences between the utilization characteristics of individuals enrolled under this part with the organization exceed the actuarial value of the coinsurance, deductibles, and other amounts that would be attributable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and part B under paragraph (4), except if they were not members of a Medicare Choice organization.

(B) REQUIREMENT FOR ADDITIONAL BENEFITS.

(1) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice product it offers) shall provide that if there is an excess amount as defined in subparagraph (C) or (D) the excess amount, for an organization for a product, is the amount (if any) by which—

(i) the difference between the capitation payments made to the organization under this part for the product at the beginning of the contract year, exceeds

(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under this part.

(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—The amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided by paragraph (a)(1) and (b) a Medicare Choice organization may not impose a premium for such additional benefits.

(3) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for such purposes (including to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount withheld and reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice product in accordance with such paragraph prior to the end of such periods. shall revert for the use of such trust funds.

(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary, after consulting with providers under paragraph (2), determines that data are insufficient to determine an actuarial rate under subparagraph (A) for a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(b) of the Public Health Service Act, other than subparagraph (C) or (D)) of each portion of the aggregate premium, which the Secretary annually estimates would apply to such an individual, the Secretary annually estimates is attributable to that service, but adjusted for differences between the utilization characteristics of the individuals receiving coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available) to adjust for the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively.

(5) SPECIAL RULE FOR PROVIDER-SUPPORTED ORGANIZATIONS.—If a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product offered by the organization under this part. Such procedures shall involve—

(A) providing notice of the rules regarding participation,

(B) providing written notice of participation decisions that are adverse to physicians, and

(C) providing a process within the organization for appeal of such procedures involving physicians.

(6) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements regarding the organization's medical policy, quality, and medical management procedures.

(7) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

(A) IN GENERAL.—Each Medicare Choice organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce services providing care under the plan or to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the plan may be certified.

(iii) (A) The plan provides stop-loss protection for the physician or physician group that is adequate and appropriate, based on standards developed by the Secretary, that takes into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled in the plan.

(B) The plan provides stop-loss protection for the physician or physician group that is adequate and appropriate, based on standards developed by the Secretary, that takes into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled in the plan.
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October 26, 1995

Section 1853. (a) DISCLOSURE TO ENROLLEES.—

SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—

(1) Benefits under the Medicare Choice product offered, including exclusions from coverage.

(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

(3) Specific liability for cost-sharing for out-of-network services.

(4) The number, mix, and distribution of participating providers.

(5) The financial obligations of the enrollee, including premiums, deductibles, co-payments, and maximum limits on out-of-pocket expenses for items and services (both in and out of network).

(6) Statistics on enrollee satisfaction with the product and organization, including reenrollment.

(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

(8) Information that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of the duties of providers in emergency situations.

(9) A description of the organization’s quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee at the time of enrollment and at least annually thereafter.

(b) ACCESS TO SERVICES.—

(1) In the Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

(A) the organization makes such benefits available and accessible to each individual electing the product; and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

(2) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides coverage for emergency services described in paragraph (1)(C) through a network of providers and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

(4) QUALITY ASSURANCE PROGRAM.—

(a) In general.—Each Medicare Choice organization shall establish quality assurance programs that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual was or would have been enrolled with such an organization under this part.

(b) NONPARTICIPATING PROVIDERS.—In the case of physicians’ services or renal dialysis services described in subparagraph (C) which are furnished by a nonparticipating physician or renal dialysis facility to an individual enrolled with a Medicare Choice organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual was or would have been enrolled with such an organization under this part.

(c) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

(C) SERVICES DESCRIBED.—The physicians’ services or renal dialysis services described in this subparagraph are physicians’ services or renal dialysis services which are furnished to an enrollee of a Medicare Choice organization that is not a participating physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

(2) Protection for needed services.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

(A) the organization makes such benefits available and accessible to each individual electing the product; and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

(b) Protection for needed services.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

(A) the organization makes such benefits available and accessible to each individual electing the product; and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

(2) Protection for needed services.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

(A) the organization makes such benefits available and accessible to each individual electing the product; and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

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(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

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(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

(2) Protection for needed services.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

(A) the organization makes such benefits available and accessible to each individual electing the product; and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.

(2) Protection for needed services.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

(A) the organization makes such benefits available and accessible to each individual electing the product; and also permits payment to be made under the product for such items and services not provided through the network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

(i) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

(ii) the amount charged by the entity furnishing such services.
"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

(1) makes available information on quality and performance measures and quality and performance comparison data in such form and on such basis as the Secretary determines appropriate;

(2) is evaluated on an ongoing basis as to its effectiveness;

(2) provides for external accreditation or reaccreditation by a private organization that has determined peer review organization under part B of title XI or other qualified independent reviewer to conduct the quality criteria that are furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services); and

(3) is reviewed periodically by the Secretary.

(2) A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

(3) APPEALS.—The Secretary shall provide for a Medicare Choice organization to the extent the organization provides for coverage of benefits and restrictions relating to utilization and without regard to whether the enrollee has a contract or other arrangement with the plan for the provision of such benefits.

(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection, and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards in effect under section 1856 to carry out this subsection and subsection (c).

(5) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to section 303 of the Employee Retirement Income Security Act of 1974, are applied in a manner consistent with the requirements of such section.

(g) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirements of section 1861(f) relating to furnishing written policies and procedures respecting advance directives.

(h) APPROVAL OF MARKETING MATERIAL.—

(1) Submission.—Each Medicare Choice organization may not distribute marketing materials unless

(a) at least 30 days before the date of distribution the organization has submitted the material to the Secretary for review; and

(b) the Secretary has not disapproved the distribution of such material.

(2) Standards.

(3) Defined.—Marketing material shall be defined as any promotion, information, or solicitation that is materially inaccurate or misleading to an enrollee.

(4) Prohibitions.

(5) Additional standardized information on quality, outcomes, and other factors.

(1) In General.—In addition to any other information required to be provided under this part, each Medicare Choice organization shall provide the Secretary at a time, not less frequently than annually, and in such form as the Secretary determines to be necessary, consistent with this part, to evaluate the performance of the organization in providing benefits to enrollees.

(2) Information to be included.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of appropriate payments under section 1855;

(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and cost of enrollees who are served under the case by Medicare Choice organizations for which such information is not available.

(j) DEMONSTRATION PROJECTS.—The Secretary shall provide for demonstration projects as an alternative method of providing comparative information about the performance of Medicare Choice organizations and products and the performance of Medicare supplemental policies in relation to such products. Such projects shall include demonstration projects on how health care outcomes result from coverage under different products and policies.

(k) PROVIDER-SUPPORTED NETWORKS.

SEC. 15901. (a) PROVIDER-SUPPORTED NETWORK DEFINED.

(1) In General.—In this part, the term "provider-sponsored network" means a public or private entity that is a provider, or group of affiliated providers, that provides a substantial proportion of services and products that are covered under Medicare, and that has entered into a written agreement with the Secretary for the provision of services and products that are covered under Medicare and furnished by the provider to such provider-sponsored network.

(2) Substantial proportion.

(3) Defined.—To determine what is a "substantial proportion" for purposes of this part, the Secretary—

(A) shall take into account the need for such an organization to assure the effective and efficient delivery of any services and products that are covered under Medicare;

(B) may vary such proportion based upon the medical necessity and outcomes of alternative methods of providing services and products.

(l) AFFILIATION.—For purposes of this subsection, a provider is "affiliated" with another provider if, through contract, ownership, or otherwise—

(A) one provider directly or indirectly, controls the other provider;

(B) one provider is a member of a group of providers, and the group of providers controls, owns, or otherwise makes a material misrepresentation of the organization that is a provider-sponsored network.

(m) SUBSTANTIAL FINANCIAL RISK.—In determining what is a substantial proportion for purposes of this subsection, the Secretary—

(1) may take into account whether the provider or affiliated group of providers, through control or ownership of the organization, or otherwise, controls the organization.

(2) shall disapprove such material if the material is materially inaccurate or misleading, and

(3) shall approve such material if the Secretary finds that the organization meets such standards established under section 1856 to carry out this subsection and subsection (c).

(n) INFORMATION TO BE INCLUDED.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of appropriate payments under section 1855;

(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and cost of enrollees who are served under the case by Medicare Choice organizations for which such information is not available.

(o) CERTIFICATION PROCESS FOR PROVIDER-SUPPORTED NETWORKS.

SEC. 15902. (a) FEDERAL ACTION ON CERTIFICATION.

(1) In General.—(A) A State fails to complete action on a licensing application of an eligible organization that is a provider-sponsored network...
within 30 days of receipt of the completed application. (B) A State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry, the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

(2) FEDERAL CERTIFICATION PROCEDURES.—(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider-sponsored network and its sponsor as meeting the requirements of this part in cases described in paragraph (1). (B) REQUIREMENTS.—Such process shall—

(i) set forth the standards for certification; (ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application. (iii) provide that State law and regulations shall apply to the extent that they have not been found to be an unreasonable barrier to market entry. (iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later than 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant as to whether the application is received by the Secretary. Not later then 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant of any reasonable information in order to ensure compliance with the certification.

In no case shall the annual Medicare Choice capitation rate be less than 85 percent of the national average of such rates for the year for all payment areas (weighted to reflect the number of Medicare beneficiaries in each such area). 

(2) ANNUAL ANNOUNCEMENT.—The Secretary shall provide notice to the general public and announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

(A) the annual Medicare Choice capitation rate for each payment area for the year; and (B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of the Employee Retirement Income Security Act of 1974.

PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

SEC. 1855 (a) PAYMENTS.—

(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each Medicare Choice organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted Medicare Choice capitation rate as provided under paragraph (3) with respect to that individual for that area.

(2) ANNUAL ANNOUNCEMENT.—The Secretary shall provide notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

(3) EXPLANATION OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including all methodology and assumptions) and changes to methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute capitation rates using assumptions and methodologies that are consistent with Federal standards and process under this paragraph. A certificate under this paragraph is in effect.

(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPITATION RATE.—

(1) IN GENERAL.—For purposes of this section, the "monthly adjusted Medicare Choice capitation rate" under this subsection, for a month in a year for an individual included in a payment area (specified under paragraph (3)) and in a class established under paragraph (4), is 3/4 of the annual Medicare Choice capitation rate for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to all individuals in such class compared to the national average for individuals in all classes.

(2) ANNUAL MEDICARE CHOICE CAPITATION RATES.—

(A) IN GENERAL.—For purposes of this section, the annual Medicare Choice capitation rate for a payment area for a year is equal to the annual Medicare Choice capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 187(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that year as determined under subsection (c).

(B) SPECIAL RULES FOR 1996.—

(i) FLOOR AT 85 PERCENT OF NATIONAL AVERAGE.—In no case shall the annual Medicare Choice capitation rate for a payment area for 1996 be less than 85 percent of the national average of such rates for the year for all payment areas (weighted to reflect the number of Medicare beneficiaries in such area).

(ii) REMOVAL OF MEDICAL EDUCATION AND DISABILITY SHARE HOSPITAL PAYMENTS FROM CALCULATION OF AVERAGE PER CAPITA COST.—In determining the annual Medicare Choice capitation rate for 1996, the average annual per capita rate of payment described in section 187(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded (C) such rate any amounts which the Secretary determined would have been payable under this title during the year for—

(a) payments adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and (b) the indirect costs of medical education under section 1886(d)(3)(B) or for direct graduate medical education costs under section 1886(h).

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) IN GENERAL.—In this section, the term 'payment area' means—

(i) a metropolitan statistical area, or (ii) all areas of a State outside of such an area.

(B) SPECIAL RULE FOR ESRD BENEFICIARIES.—Such term means, in the case of the population group described in paragraph (5)(C), each State.

(C) REPORT—Not later than December 31, 1996, the Secretary shall report to Congress on such research conducted to date, and shall submit to Congress a report on such research by not later than January 1, 1997.

(4) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (1) and this section, the Secretary shall recognize the following separate population groups:

(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (B) or (C). (B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C). (C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

(D) PER CAPITA GROWTH RATES.—

(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area as defined under paragraph (2), shall be the following:

(i) BELOW AVERAGE SERVICE UTILIZATION.—For areas assigned to the below average service utilization cohort, 8 percent.
("ii") ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.10 percent shall be assigned to this highest service utilization cohort.

(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the national average per capita growth rate for—

(A) 1996 is 5.0 percent.

(B) 1997 is 6.0 percent.

(C) 1998 is 6.0 percent.

(D) 1999 is 5.5 percent.

(E) 2000 is 5.5 percent.

(F) 2001 is 5.5 percent.

(G) 2002 is 5.5 percent.

(H) each subsequent year is 55 percent.

(4) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the average service utilization cohort.
(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or
(2) termination of election with respect to a Medicare Choice organization under this part.

(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge.
(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization.

(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

ESTABLISHMENT OF STANDARDS FOR MEDICARE CHOICE ORGANIZATIONS AND PRODUCTS

SEC. 1856. (a) INTERIM STANDARDS.—
(1) IN GENERAL.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

(2) CONSULTATION.—In developing regulations under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the Association of Health Plans.

(3) EFFECT ON STATE REGULATIONS.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

(b) PERMANENT STANDARDS.—(1) IN GENERAL.—In general, the Secretary shall develop permanent standards under this subsection.

(2) CONSULTATION.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and Medicare beneficiaries.

(c) EFFECTIVENESS.—The standards under this subsection shall take effect on the date they are finalized and shall be in effect for 3 years beginning on or after January 1, 2000.

SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1856 of a Medicare Choice organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one Medicare Choice product.

(b) ENROLLMENT REQUIREMENTS.—(1) MINIMUM ENROLLMENT REQUIREMENTS.—Subject to paragraph (2), the Secretary may not enter into a contract under this section with a Medicare Choice organization unless the organization has, for the duration of such contract, an unrestricted surplus.

(2) SUSPENSION OR TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 100) if the organization (that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urban areas.

(c) ALLOWING TRANSITIONS.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

(d) AREA OF PROVISIONS WITH LOW MANAGED CARE PENETRATION.—The Secretary may require the waiver of subparagraph (A) if the case of organizations in areas in which there is a low proportion of Medicare beneficiaries who have made the Medicare Choice election.

(2) REQUIREMENT FOR ENROLLMENT OF NON-MEDICARE BENEFICIARIES.—
(A) IN GENERAL.—Each Medicare Choice organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under a State plan approved under title XIX.

(B) EXCEPTION.—Subparagraph (A) shall not apply to—
(i) an organization that has been certified by a national organization recognized by the Secretary and has been found to have met minimum standards established by the Secretary for at least 2 years; and
(ii) a provider-sponsored organization for which commercial payments to providers participating in the organization exceed the payments to the organization under this part.

(c) MODIFICATION AND WAIVER.—The Secretary may on its own initiative, in consultation with the Medicare Choice organizations and the National Association of Insurance Commissioners, establish a process for the certification of organizations as meeting the applicable standards.

(d) EFFECT ON STATE LAWS.—The standards and requirements of this section are in addition to and supplement any State law. The standards or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations otherwise covered under this part, and to the extent such law or regulation is inconsistent with such standards.

SEC. 1851(b)(1) applies, then the Secretary shall deem to meet the corresponding requirement.

SEC. 1851(b)(1) applies, then the Secretary shall deem to meet the corresponding requirement.

SEC. 1856. (a) INTERIM STANDARDS.—
(1) IN GENERAL.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

(2) CONSULTATION.—In developing regulations under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the Association of Health Plans.

(3) EFFECT ON STATE REGULATIONS.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

(b) PERMANENT STANDARDS.—(1) IN GENERAL.—In general, the Secretary shall develop permanent standards under this subsection.

(2) CONSULTATION.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and Medicare beneficiaries.

(c) EFFECTIVENESS.—The standards under this subsection shall take effect on the date they are finalized and shall be in effect for 3 years beginning on or after January 1, 2000.

(1) reinsurance purchased through a recognized commerce company or through a captive company owned directly or indirectly by 3 or more provider-sponsored organizations,

(2) unrestrained surplus,

(3) excesses, and

(4) letters of credit

In such standards, the Secretary may treat as admitted assets the assets used by a provider-sponsored organization in delivering covered services.

(a) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with which the Secretary has entered into a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization shall have such changes apply to the organization until the end of the current contract year (or, if there is less than 3 months remaining in the contract year, until 1 year after the end of the current contract year).

(b) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law. The standard or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations otherwise covered under this part, and to the extent such law or regulation is inconsistent with such standards.

SEC. 1851(b)(1) applies, then the Secretary shall deem to meet the corresponding requirement.

(A) the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 100) if the organization (that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urban areas.

The Secretary may require the waiver of subparagraph (A) during the first 3 contract years with respect to an organization.

(c) AREA OF PROVISIONS WITH LOW MANAGED CARE PENETRATION.—The Secretary may require the waiver of subparagraph (A) if the case of organizations in areas in which there is a low proportion of Medicare beneficiaries who have made the Medicare Choice election.

(A) has failed substantially to carry out the contract.
(B) is carrying out the contract in a manner consistent with the intent and effective administration of this part;

(C) is operating in a manner that is not in the best interests of the individuals covered under the contract;

(D) no longer substantially meets the applicable conditions of this part.

(3) DETERMINATION OF EFFECTIVE DATE OF CONTRACTS.—The effective date of a contract executed pursuant to this section shall be specified in the contract.

(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section or with another organization under this part has terminated within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may not be performed without regard to such provisions of law as regulations relating to the making, performance, amendment, or modification of contracts of the United States, and the Secretary may determine to be inconsistent with the fulfillment of the purpose of this title.

(d) PROTECTIONS AGAINST FRAUD AND BENEFIT OVERPAYMENTS.—

(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary:

(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract, and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

(2) PERIODS, AND TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under such contract.

(3) DISCLOSURE.—

(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

(ii) A copy of the report, if any, filed with the Secretary by the organization containing the information required to be reported under section 1124 by disclosing entities.

(iii) A description of transactions, as specified by the Secretary, between the organization and any party in interest. Such transactions shall include:

(I) any sale or exchange, or leasing of any property between the organization and any party in interest;

(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and any party in interest, but not including amounts paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice associations (or associations), or any combination thereof;

(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported pursuant to the provisions of this paragraph which involves the controls, is controlled by, or is under common control with, another entity be in the form of an audit or examination statement for the organization and such entity.

(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, anyone who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the mortgage, and, in the case of a Medicare Choice organization and nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

(ii) any entity in which a person described in clause (i) is a 5 percent owner (a) as permitted by this part; (b) as permitted by such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned); and (c) in the case of a Medicare Choice organization described in paragraph (1)(D), $15,000 for each individual not enrolled as a result of the corrective action involved.

(C) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to subparagraph (A) available to its enrollees upon reasonable request.

(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements between the organization and subcontractors, affiliates, and related parties.

(5) ADDITIONAL CONTRACT TERMS.—The contract shall contain other terms and conditions not inconsistent with this part, including the requirements of the Secretary made necessary and appropriate under this part. The Secretary may make necessary and appropriate Medicare Choice organization with a contract under this section.

(A) failure to provide medically necessary items and services that are covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

(B) imposition of sanctions under this part due to the failure to comply with the requirements of section 1852(c)(2) or (d); or

(C) employs or contracts with any individual or entity that is excluded from participation in any provision of law or section 1128A of the Social Security Act.
on the organization in accordance with formal investigation and compliance procedures established by the Secretary under this subparagraph (1).

(1) The Secretary provides the organization with the opportunity to develop and implement a plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2).

(2) The Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention.

(3) There are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

(4) The Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

SEC. 8003.

(a) ALTERNATIVE PAYMENT APPROACHES.—

By not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this title referred to as the "Secretary") shall submit to Congress alternative payment approaches under the medicare program, including—

(1) combined hospital and physician payment approaches;

(2) payment approaches under the medicare program for skilled nursing facilities during cost reporting periods which began on or after July 1, 1996; and

(3) risk-sharing arrangements in which the Secretary defines the risk corridor and shares in gains and losses.

Such report shall include recommendations for modifying and testing such approaches and legislation that may be required to implement and test such approaches.

(b) COVERAGE OF RETIRED WORKERS.—

(1) IN GENERAL.—The Secretary shall work with employers and health benefit plans to develop standards and payment methodologies to allow retired workers to continue to participate in employer health plans instead of participating in the medicare program.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on alternative payment approaches and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004.

TRANSITION RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) TRANSITION FROM CURRENT CONTRACTS.—

(1) LIMITATION ON NEW CONTRACTS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall not enter into any new risk-sharing or cost reimbursement contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards described in paragraph (1)(A) are established.

(b) COST REIMBURSEMENT CONTRACTS.—The Secretary shall not extend or continue any cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(c) CONFORMING PAYMENT RATES UNDER RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1998) shall be computed—

(i) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act and

(ii) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (determined by the proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act.

For purposes of carrying out this paragraph for payments for months in 1998, the Secretary shall determine, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in section 1886(e)(2), as timely a manner as possible and (to the extent necessary) provide for retroactive adjustment in payments made in accordance with such rates.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

SEC. 8151.

(a) IN GENERAL.—The Secretary shall adjust the payments under title XVIII of the Social Security Act for any contract year beginning on or after January 1, 1997, with the following:

"(2) FEE SCHEDULE AREA.—

(A) GENERAL RULE—Except as provided in subparagraph (B), the term 'fee schedule area' means, with respect to physicians' services furnished in a State, the State or a part of the State with highest variation among areas. In the case of the States with the greatest variation in costs associated with physicians' services among various geographic areas of the State (as determined by the Secretary in accordance with such standards as the Secretary considers appropriate), the fee schedule area applicable with respect to physicians' services furnished in the State shall be a locality used under section 1842(b)(4) for purposes of computing payment amounts for physician services, except that the Secretary shall revise the localities used under such section so that there are no more than 5 such localities in any State.

(B) BUDGET-NEUTRALITY REQUIREMENT.—The Secretary of Health and Human Services shall carry out the amendment made by subsection (a) in a manner that ensures that the aggregate amount of payment made for physicians' services under part B of the medicare program in any year does not exceed the aggregate amount of payment which there would have been made for such services under part B of such title in any year if the amend- ment were not in effect.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians' services furnished on or after January 1, 1997.

"
PART 3—PARVIMINS AFFECTING HOSPITALS

SEC. 8211. REDUCTION IN UPDATE FOR INFAP-TIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) by adding paragraph (VI) to read as follows:

"(VI) FISCAL YEAR 1996 AND THEREAFTER.—

(1) in general.—The update for all physician services for a year beginning after 1996 provided under subparagraph (A) shall be increased or decreased by 1.5 percentage points if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is increased or decreased by more than 1.5 percentage points from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year.

(2) In subsection (B), in the matter following clause (i), by striking "November 1995" and inserting "October 26, 1995".

(b) NON-EXEMPT HOSPITALS.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(i) by striking "1.5" and inserting "1.0";

(ii) by striking "and" at the end:

(2) in paragraph (2)—

(A) in subparagraph (A)—

(1) by striking "in general." and inserting "For each fiscal year beginning after fiscal year 1996, if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is decreased by more than 0.5 percentage point from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year, the update for all physician services for a year beginning after 1996 provided under subparagraph (A) shall be decreased by 0.5 percentage point if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is increased by more than 0.5 percentage point from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year.

(b) REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(1) By striking "of 80 percent; and".

(2) By striking "and inserting "in the fourth sentence of section 1842(b)(3) as redesignated by subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during the cost reporting periods which began during fiscal year 1994, 1995, or 1996)."

(c) PROSPECTIVE PAYMENTS.—Section 1886(b)(2) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996.".

(d) HOME HEALTH AGENCIES.—

(i) REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(1) By striking "1996" and inserting "1997".

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.".

PART 3—PROVISIONS AFFECTING DOCTORS

SEC. 8212. UPDATING FEES FOR PHYSICIANS' SERVICES.

(a) ESTABLISHMENT OF SINGLE, CUMULATIVEindhoven.

(1) By striking "of 80 percent; and".

(2) by striking "and inserting "in the fourth sentence of section 1842(b)(3) as redesignated by subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during the cost reporting periods which began during fiscal year 1994, 1995, or 1996)."

(c) PROSPECTIVE PAYMENTS.—Section 1886(b)(2) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996.".

(d) HOME HEALTH AGENCIES.—

(i) REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(1) By striking "1996" and inserting "1997".

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.".

PART 3—PROVISIONS AFFECTING DOCTORS

SEC. 8211. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) by adding paragraph (VI) to read as follows:

"(VI) FISCAL YEAR 1996 AND THEREAFTER.—

(1) in general.—For each fiscal year beginning after 1996, if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is decreased by more than 0.5 percentage point from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year, the update for all physician services for a year beginning after 1996 provided under subparagraph (A) shall be decreased by 0.5 percentage point if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is increased by more than 0.5 percentage point from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year.

(b) NON-EXEMPT HOSPITALS.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(i) by striking "and" at the end:

(2) in paragraph (2)—

(A) in subparagraph (A)—

(1) by striking "in general." and inserting "For each fiscal year beginning after fiscal year 1996, if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is decreased by more than 0.5 percentage point from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year, the update for all physician services for a year beginning after 1996 provided under subparagraph (A) shall be decreased by 0.5 percentage point if the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the previous year is increased by more than 0.5 percentage point from the annual percentage rate of increase in the Consumer Price Index for All Urban Consumers (All Items) for the 12-month period ending December 31 of the base year.

(b) REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(1) By striking "of 80 percent; and".

(2) By striking "and inserting "in the fourth sentence of section 1842(b)(3) as redesignated by subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during the cost reporting periods which began during fiscal year 1994, 1995, or 1996)."

(c) PROSPECTIVE PAYMENTS.—Section 1886(b)(2) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996.".

(d) HOME HEALTH AGENCIES.—

(i) REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(1) By striking "1996" and inserting "1997".

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.".

PART 3—PROVISIONS AFFECTING DOCTORS

SEC. 8212. UPDATING FEES FOR PHYSICIANS' SERVICES.

(a) ESTABLISHMENT OF SINGLE, CUMULATIVE

(1) By striking "of 80 percent; and".

(2) by striking "and inserting "in the fourth sentence of section 1842(b)(3) as redesignated by subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during the cost reporting periods which began during fiscal year 1994, 1995, or 1996)."

(c) PROSPECTIVE PAYMENTS.—Section 1886(b)(2) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996.".

(d) HOME HEALTH AGENCIES.—

(i) REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(1) By striking "1996" and inserting "1997".

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.".
SEC. 8222. ALLOCATIVE FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUT- PATIENT HOSPITAL SERVICES.
(1) by striking "of 80 percent"; and
(2) by adding at the end and inserting the following:--less the amount a provider may charge as described in clause (ii) of section 1886(b)(1)(A).
(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES—Section 1833(u)(1)(B)(I)(II) (42 U.S.C. 1395t(u)(1)(B)(I)(II)) is amended—
(1) by striking the period at the end and inserting the following:--less the amount a provider may charge as described in clause (II) of section 1886(b)(1)(A) after January 1, 1994.
(c) EFFECTIVE DATE—The amendments made by this section shall apply to services furnished during cost reporting periods occurring on or after July 1, 1994.
SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT HOSPITALS.
(a) IN GENERAL—Section 1833(a)(2)(B) (42 U.S.C. 1395t(a)(2)(B)) is amended by striking "section 1886" and all that follows and inserting the following:
(1) by striking the period at the end and inserting the following:--less the amount a provider may charge as described in clause (I) of section 1886(b)(1)(A) after January 1, 1994.
(b) EFFECTIVE DATE—The amendments made by this section shall apply to services furnished on or after January 1, 1997.
SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOSPITALS FOR INPATIENT CAPITAL-RELATED COSTS.
(a) PPS HOSPITALS—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking "1995" and inserting "2002".
(b) EXEMPT HOSPITALS—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the date of enactment and inserting "May 11, 1997".
(c) EFFECTIVE DATE—The amendments made by subsection (a) shall apply to costs and services furnished on or after January 1, 1997.
SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.
(a) IN GENERAL—Section 1886(g)(1)(D) (42 U.S.C. 1395ww(g)(1)(D)) is amended by striking "Secretary" and inserting "Secretary on or before September 30, 1995".
(b) RECOMMENDATIONS ON APPROPRIATE STANDARDS FOR LONG-TERM CARE HOSPITALS—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress recommendations for modification of the current long-term care hospital prospective payment criteria to determine whether a hospital (including a distinct part of another hospital) is classified as a long-term care hospital for purposes of determining the amount of payment to the hospital under part A of the Medicare program for the operating costs of inpatient hospital services.
PART IV—PROVISIONS AFFECTING OTHER PROVIDERS
SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.
(a) ADDITIONS TO COST LIMITS—Section 1811(v)(I)(L) (42 U.S.C. 1395ww(v)(I)(L)) is amended by adding by the end the following new clauses:
(iv) Services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for payments for home health services, as determined by a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.
SEC. 8232. PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES.
(a) AMENDMENTS TO THE HOME HEALTH PROGRAM—Title XVIII is amended by adding at the end the following new section:
"SEC. 1811(v). The Secretary shall expand research on a prospective payment system for home health agencies that would replace prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjustor that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.
(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:
"SEC. 1811(v). Notwithstanding section 1811(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health agencies in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.
"(a) Such a system shall include the following:
"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under current Medicare expenditures for home health services.
"(b) All services covered and paid on a reasonable cost basis under the Medicare home health payment system for costs related to the amendment to the Medicare Enhanced Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within a 30-day period. Changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continuing research on a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.
"(2) The Secretary shall employ an appropriate case mix adjustor that explains a significant amount of the variation in cost.
"(c) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in laborer costs based on the most current hospital wage index.
"(d) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.
"(e) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to a non-hospital service provider for non-medically necessary care, the episode payment shall be pro-rated between home health agencies.
"SEC. 8233. LIMITATION OF HOME HEALTH COVERAGE UNDER PART A.
(a) IN GENERAL.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the date of enactment and inserting "up to 150 days during any spell of illness:".
(b) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—
INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NONROUTINE SERVICES.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NONROUTINE SERVICES.—

SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

(1) COVERED NONROUTINE SERVICES.—The term 'covered nonroutine services furnished to an individual who is a resident of a skilled nursing facility, under any other contracting or consulting arrangement, with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

(2) MAINTAINING RECORDS ON SERVICES FurnISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document the facility's cost report for all covered nonroutine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) without regard to whether the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise.

(3) RECONCILIATION OF AMOUNTS.—(I) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—(A) IN GENERAL.—If a skilled nursing facility receives aggregate payments under subsection (b) for covered nonroutine services during a cost reporting period during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

(i) the per stay limit applicable to the facility under subsection (d) for the period; and

(ii) the number of stays beginning during the period for which payment was made to the facility.

(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

(2) INCENTIVE PAYMENTS.—(A) IN GENERAL.—If a skilled nursing facility receives aggregate payments under subsection (b) for covered nonroutine services during a cost reporting period beginning during a fiscal year in an amount that is more than the amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under this title (under section 1888A for the period under paragraph (1)(B) for the previous fiscal year without regard to subparagraph (B)).

(B) INSTALLMENT INCENTIVE PAYMENTS.—The incentive payments made during a fiscal year to a skilled nursing facility based on the estimated incentive payment under part A during a fiscal year (beginning with fiscal year 1996) without regard to whether the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise.

INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage increase for a fiscal year for a skilled nursing facility.

SEC. 1888B. (a) RECONCILIATION OF AMOUNTS.—(I) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—(A) IN GENERAL.—If a skilled nursing facility receives aggregate payments under subsection (b) for covered nonroutine services during a cost reporting period during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

(i) the per stay limit applicable to the facility under subsection (d) for the period; and

(ii) the number of stays beginning during the period for which payment was made to the facility.

(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

(2) INCENTIVE PAYMENTS.—(A) IN GENERAL.—If a skilled nursing facility receives aggregate payments under subsection (b) for covered nonroutine services during a cost reporting period beginning during a fiscal year in an amount that is more than the amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under this title (under section 1888A for the period under paragraph (1)(B) for the previous fiscal year without regard to subparagraph (B)).

(B) INSTALLMENT INCENTIVE PAYMENTS.—The incentive payments made during a fiscal year to a skilled nursing facility based on the estimated incentive payment under part A during a fiscal year (beginning with fiscal year 1996) without regard to whether the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise.

INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage increase for a fiscal year.
payment that the facility would be eligible to receive if the service were furnished by the facility, by others under arrangement with them made by the facility, with or without contracting or consulting arrangement, or otherwise, as estimated by the Secretary.

(d) DETERMINATION OF FACILITY PER STAY LIMIT—

(1) LIMIT FOR FISCAL YEAR 1997.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

(i) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (1), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (1), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

(B) REBASED OF AMOUNTS.—

(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts under paragraph (1) to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility or a facility which was not made under this title for covered non-routine services during the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A).

(C) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during fiscal year 1997 is equal to the per stay limit established under subsection (c)(1) for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

(D) REBASED AMOUNTS.—

(A) IN GENERAL.—The Secretary may provide for a reupdate of the facility-specific amounts under paragraph (2) to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

(B) FACILITIES NOT HAVING BASED COST REPORTING PERIODS.—Paragraph (2)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during fiscal year 1997 is equal to the per stay limit established under subsection (c)(1)(B) for the 12-month cost reporting period, except that the total amount of any additional payments made under this subsection for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed the amount of any aggregate paid to such skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to any adjustment under paragraph (1)) by the secretary.

(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments that would have been made but for the application of paragraph (1).

(4) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.

(b) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits under this subsection for a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this subsection for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed the amount of any aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to any adjustment under paragraph (1)) by the Secretary.

(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

(3) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.

(c) TRANSFERS TO FUND.—

(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund under this title, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

(A) the nationwide total of the amounts that would have been paid under sections 1855 and 1876 during the year but for the operation of section 1855(d)(2)(B)(i); and

(B) the nationwide total of the amounts paid under such sections during the year.

(d) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—For purposes of sections 1833(h)(2)(A)(i) and (ii) (42 U.S.C. 1395(h)(2)(A)(i)(IV)) and section 1848(a)(2)(B), paragraphs (1) and (2) of this section determine the amounts required to meet current withdrawals from the Fund.

(e) INVESTMENT.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Medicare Trust Funds as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(f) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(g) AVAILABLE OF INCOME.—Any interest derived from obligations acquired by the Fund and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

(h) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Secretary may accept gifts and bequests, if any.
States money gifts and bequests made un-conditionally, or for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS "SEC. 3111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

(a) In General.—In the case of each teaching hospital that in accordance with subparagraphs (B) and (C) of paragraph (2) of section 1886(d) of the Social Security Act for the fiscal year has met the requirements to receive a payment for the fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from amounts in the Part B Trust Fund and shall be made in accordance with a formula established by the Secretary.

(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the time required by the Secretary. The document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.

"(c) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include any individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.
(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(iv) Chair.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.


(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organized hospitals paid on a capitated basis, see section 1855(d)(1)(B)(ii).

"(d) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO THE FEDERAL MEDICAID EXPENSES.—In section 1904(a) of title 42 U.S.C., the words "total Medicaid coverage amount" shall be substituted for the words "total expenses attributable to Medicaid coverage" in the place provided for such words by section 1833(w)(1)(A) of such title.

"(e) AMENDMENT.—This section shall be effective as of October 26, 1995.

"(f) PROVISIONS RELATING TO MEDICARE PROVIDERS.—The amendments made by this section shall apply to any individual, organization, or entity, whether or not it is a Medicare provider, under this title or title XVIII of the Social Security Act.


"(h) AMENDMENTS.—This section shall be effective as of October 26, 1995.

"(i) PHASE-IN.—In the case of a fiscal year for which this section is applicable, the phase-in of the provisions of this section shall be as follows:

(1) in subparagraph (B)(v), by striking "October 26, 1995" and inserting "January 1, 1996"; and

(2) in paragraph (2), by striking "subsequent fiscal year" and inserting "October 1, 1995".

"PRIVATE MEDICARE PART B PREMIUM.

(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to which this subsection applies, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare Part B premiums for months during such year that such individual is covered under Medicare Part B.

"PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM

(a) IN GENERAL.—Subchapter A of chapter I of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"SEC. 3820. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS

(a) IN GENERAL.—Subchapter A of chapter I of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"SEC. 3820. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS

(1) In General.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare Part B premiums for months during such year that such individual is covered under Medicare Part B.

"(2) In General.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

(1) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839c(ii) of the Social Security Act for such month, over the threshold amount.

(b) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare Part B premium for any individual whose threshold amount is

(1) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839c(ii) of the Social Security Act for such month, over the threshold amount.

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).
"(A) except as otherwise provided in this paragraph. (b) $75,000,000 in the case of a joint return, and (c) in the case of a taxpayer who—(i) is married at the close of the taxable year, does not file a joint return for such taxable year, and (ii) does not live apart from his spouse at all times during the taxable year.

2. ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 931 and 933.

3. RETURN—In the case of a joint return—(A) the amount imposed by subsection (a) shall be the aggregate of the amounts so imposed separately for each spouse, and (B) subsections (a) and (b) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

4. MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid in accordance with title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

5. DETERMINATION.—In the case of an individual who—(i) is married at the close of the taxable year, does not file a joint return for such year, and (ii) does not live apart from his spouse at all times during the taxable year.

6. TRANSFERS—The amounts appropriated to the Supplemental Medical Insurance Trust Fund shall be transferred to the general fund of the Treasury on the basis of estimated amounts required to be transferred.

7. COORDINATION WITH OTHER PROVISIONS.—(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental Medicare part B premium imposed by this section shall be treated as an amount paid for insurance covering medical care as defined in section 213.

8. PROVIDING ANNUAL SCREENING EXAMINATION.—(a) PROVIDING ANNUAL SCREENING EXAMINATIONS FOR WOMEN OVER AGE 49—(1) COVERAGE OF PAP SMEAR; INCREASING FREQUENCY.—Section 1861(nn) of the Social Security Act (42 U.S.C. 1395m(nn)) is amended—(A) in the case of an individual under age 65 who is a woman, to require payment under this part to be made for an examination by a qualified health care professional to determine the presence of cervical cancer.

9. COVERAGE OF COLORECTAL SCREENING.—(1) COVERAGE OF COLORECTAL SCREENING.—Section 1834(m)(1)(F) of the Social Security Act (42 U.S.C. 1395m(c)(2)(A)) is amended—(A) in the case of an individual under age 65 who—(i) is married at the close of the taxable year, and (ii) does not file a joint return for such year, and (iii) does not live apart from his spouse at all times during the taxable year, to require payment under this part to be made for a flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer.

10. FREQUENCY LIMITS.—Subject to revision by the Secretary for purposes of this subpart, the frequency of coverage of specified medical services provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subpart, or (B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

11. SCREENING FLEXIBLE SIGMOIDOSCOPES.—(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under section 1848 for similar or related services, except that such payment amount shall be established with regard to subsection (a)(2)(A) of such section.

12. SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to colonoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under section 1848 for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

13. SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under section 1848 for similar or related services, except that such payment amount shall be established with regard to subsection (a)(2)(A) of such section.

14. SCREENING FLEXIBLE SIGMOIDOSCOPY.—(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under section 1848 for similar or related services, except that such payment amount shall be established with regard to subsection (a)(2)(A) of such section.

15. SCREENING FLEXIBLE SIGMOIDOSCOPY.—(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under section 1848 for similar or related services, except that such payment amount shall be established with regard to subsection (a)(2)(A) of such section.

16. SCREENING FLEXIBLE SIGMOIDOSCOPY.—(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under section 1848 for similar or related services, except that such payment amount shall be established with regard to subsection (a)(2)(A) of such section.
which a previous screening colonoscopy was performed.

"(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining individuals at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration a family history, prior experience of cancer, a history of chronic disease, and the presence of any appropriate recognized gene markers for colorectal cancer.

(4) REVISION OF FREQUENCY.—

(A) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

(B) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.

(5) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395d(a)) are each amended by striking "(2)(B)", and inserting "(2)(B)(1)", and inserting "subparagraph (2)(A)"

(B) Clauses (i) and (ii) of section 1848(b)(2)(A) (42 U.S.C. 1395w(c)(2)(A)) are each amended by striking "(B)", and inserting "(A)", and inserting "(D)", and inserting "(E)", and inserting "(F)", and inserting "(H)(ii)"

(C) Section 1861(s)(2) (42 U.S.C. 1395s(s)(2)), as amended by subsection (d)(4), is amended—

(1) in paragraph (B), by striking "and")", and inserting "and")", and inserting "(G)", and inserting "(H)", and inserting "(I)", and inserting "(J)", and inserting "(K)", and inserting "(L)", and inserting "(M)", and inserting "(N)", and inserting "(O)", and inserting "(P)", and inserting "(Q)", and inserting "(R)", and inserting "(S)", and inserting "(T)", and inserting "(U)", and inserting "(V)", and inserting "(W)", and inserting "(X)", and inserting "(Y)", and inserting "(Z)", and inserting "[AA]", and inserting "[BB]", and inserting "[CC]", and inserting "[DD]", and inserting "[EE]", and inserting "[FF]", and inserting "[GG]", and inserting "[HH]", and inserting "[II]", and inserting "[JJ]", and inserting "[KK]", and inserting "[LL]", and inserting "[MM]", and inserting "[NN]", and inserting "[OO]", and inserting "[PP]", and inserting "[QQ]", and inserting "[RR]", and inserting "[SS]", and inserting "[TT]", and inserting "[UU]", and inserting "[VV]", and inserting "[WW]", and inserting "[XX]", and inserting "[YY]", and inserting "[ZZ]", and inserting "[AAAA]", and inserting "[BBBB]", and inserting "[CCCC]", and inserting "[DDDD]", and inserting "[EEEE]", and inserting "[FFFF]", and inserting "[GGGG]", and inserting "[HHHH]", and inserting "[IIII]", and inserting "[JJJJ]", and inserting "[KKKK]", and inserting "[LLLL]", and inserting "[MMMM]", and inserting "[NNNN]", and inserting "[OOOO]", and inserting "[PPPP]", and inserting "[QQQQ]", and inserting "[RRRR]", and inserting "[SSSS]", and inserting "[TTTT]", and inserting "[UUUU]", and inserting "[VVVV]", and inserting "[WWWW]", and inserting "[XXXX]", and inserting "[YYYY]", and inserting "[ZZZZ]", and inserting "[AAAAA]", and inserting "[BBBBBB]", and inserting "[CCCCCC]", and inserting "[DDDDDD]", and inserting "[EEEEE]", and inserting "[FFFFFF]", and inserting "[GGGGGG]", and inserting "[HHHHHH]", and inserting "[IIIIII]", and inserting "[JJJJJJ]", and inserting "[KKKKKK]", and inserting "[LLLLLL]", and inserting "[MMMMMM]", and inserting "[NNNNNN]", and inserting "[OOOOOO]", and inserting "[PPPPPP]", and inserting "[QQQQQQ]", and inserting "[RRRRRR]", and inserting "[SSSSSS]", and inserting "[TTTTTT]", and inserting "[UUUUUU]", and inserting "[VVVVVV]", and inserting "[WWWWWW]", and inserting "[XXXXXXXXXX]", and inserting "[YYYYYYYYYYYY]", and inserting "[ZZZZZZZZZZZZZZZZZ]", and inserting 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(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. The Secretary shall provide written consultation with the Attorney General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to subparagraph (A) shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon receipt of a request under subparagraph (A), the Secretary may consider—

(1) whether and to what extent the practice identified in the special fraud alert occurs in other cases or has been identified in other cases;

(2) the extent and frequency of the conduct that would be identified in the special fraud alert.

(C) CONSEQUENCES DESCRIBED.—The consequences described in this subparagraph are as follows:

(i) An increase or decrease in access to health care services.

(ii) An increase or decrease in the quality of health care services.

(iii) An increase or decrease in patient freedom of choice among health care providers.

(iv) An increase or decrease in competition among health care providers.

(v) An increase or decrease in the cost of health care programs of the Federal Government.

(vi) An increase or decrease in the potential utilization of health care services.

(vii) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the Medicare program or a State health care program (as defined in section 1128(b) of the Social Security Act) shall be published in the Federal Register. Each notice issued by another Governmental agency which informs the public of practices which the Secretary considers to be suspect or of particular concern shall be published in the Federal Register or in a regional office of the Health Care Financing Administration.

(Sec. 8402. BAN ON USE OF FUNDS TO REPORT FRAUD AND ABUSE.)

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—Establishment of program.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or have engaged in violations of the Federal criminal laws concerning grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act or who have otherwise engaged in fraud and abuse against the Medicare program.

(b) ACTIVITIES DESCRIBED.—The activities described in this section are as follows:

(1) Review of activities of providers of health care services, including facilities, agencies, and other persons with respect to payment integrity and benefit quality assurance issues.

(2) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into contracts under the Program to carry out any of the activities described in subsection (b) if—

(1) the entity has demonstrated capability to carry out such activities;

(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies as appropriate, in the investigation and prosecution of fraud and abuse in relation to this title and in other cases arising out of such activities;

(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner;

(4) the entity meets such other requirements as the Secretary may impose.

(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

(2) The provisions of section 1133(e)(1) shall apply to contracts and contracting authorities under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall not be liable to provide for the limitations of a contractor's liability for actions taken to carry out a contract under the Program, and such regulations shall, to the extent funds are appropriated, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1133(e).

(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under section 1157 the Trust Fund as provided in subsection (b).

(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established the Medicare Anti-Fraud and Abuse Trust Fund (hereafter in this section referred to as the 'Fund'), which shall be established in the Treasury of the United States and shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Fund.

(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept gifts and bequests as provided in subsection (a) and such amounts as may be deposited in the Trust Fund as provided in subsection (f).
accept on behalf of the United States money gifts, bequests, or devises, or any other property or any activity financed through the
Trust Fund.

"(d) FUNDING.—(1) Generally.—The Inspector General of the Department of Health and Human Services shall submit to Congress biannually a report on the performance and activities of the Medicare Integrity Program, in addition to
the report submitted under subsection (b).

(2) Effect.—Nothing in this subsection shall be construed to affect any other provisions of law, including the Inspector General Act of 1978 (5 U.S.C. App.).

(3) PROVISIONAL AMOUNT.—Section 1128A(f)(3) (42 U.S.C. 1395a(f)(3)) is amended by adding at the end the following new paragraph:

"(6) No provider may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(3) AMOUNTS.—Section 1128A(f)(3) (42 U.S.C. 1395a(f)(3)) is amended by adding at the end the following new subsection:

"(4) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(I) IN GENERAL.—There are appropriated from the Federal Health Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund under this section, subject to subparagraph (B).

(II) AMOUNTS SPECIFIED.—The amounts appropriated under paragraph (A) for a fiscal year is as follows:

(a) For fiscal year 1995, such amount shall be not less than $540,000,000 and not more than $750,000,000.

(b) For fiscal year 2001, such amount shall be not less than $560,000,000 and not more than $700,000,000.

(c) In fiscal year 2002, such amount shall be not less than $560,000,000 and not more than $700,000,000.

(d) After the first expenditure of amounts appropriated under paragraph (A) for a fiscal year, the amount appropriated for the fiscal year shall not fall below the amount appropriated for the preceding fiscal year.

(II) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

(B) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (A) for a fiscal year is as follows:

(i) For fiscal year 1995, such amount shall be not less than $300,000,000 and not more than $350,000,000.

(ii) For fiscal year 1996, such amount shall be not less than $350,000,000 and not more than $400,000,000.

(iii) For fiscal year 1997, such amount shall be not less than $400,000,000 and not more than $450,000,000.

(iv) For fiscal year 1998, such amount shall be not less than $450,000,000 and not more than $500,000,000.

(v) For fiscal year 1999, such amount shall be not less than $500,000,000 and not more than $550,000,000.

(vi) For fiscal year 2000, such amount shall be not less than $550,000,000 and not more than $600,000,000.

(vii) For fiscal year 2001, such amount shall be not less than $600,000,000 and not more than $700,000,000.

(viii) For fiscal year 2002, such amount shall be not less than $700,000,000 and not more than $750,000,000.

(III) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount appropriated under paragraph (A) for the fiscal year, the amount expended, the amount distributed, and the number of individuals, including providers, who are referred to law enforcement agencies under section 1894 of the Social Security Act.

(II) ELIMINATION OF F.I. AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) PROVISIONS.—Section 1842(b)(3) (42 U.S.C. 1395ww(b)(3) is amended by adding at the end the following new subsection:

"(C) Carrier certification or validation may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894."

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395ww(c)) is amended by adding at the end the following new paragraph:

"(6) No provider may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894."

(b) DURATION OF PROJECTS.—Each project established under subsection (a) shall last for at least 18 months and as long as determined by the Secretary of Health and Human Services as having a high incidence of fraud and abuse.

(c) REPORT.—Not later than January 1, 1997, the Secretary shall submit to Congress an evaluation of the demonstration projects and shall include in the report an assessment of the effectiveness of, and any recommended legislative changes to, each project.
(B) in clause (ii), by striking "and" and inserting "or"; and

(C) by inserting "or" at the end and inserting ", and:".

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv)."

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 1395(e)(2) of title 42, United States Code (as now in effect) is amended by removing "or fiscal year 1994" and inserting "fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999.";

(4) TECHNICAL CORRECTION.—Section 1868(s)(4)(G)(I) (42 U.S.C. 1395ww(d)(5)(G)(I)), as in effect before the amendment made by paragraph (I), is amended by striking all that follows the first period, following "SEC.", and inserting "September 1, 1995.

SEC. 7023. DESIGNATING RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1861(s)(3)(B) (42 U.S.C. 1395(s)(3)(B)) is amended by adding at the end the following new clause:

"(A) by striking "or" at the end of the preceding paragraph; and

"(B) in paragraphs (J), (K), (L), and (M), inserting "or" in the place of "and".

(5) PURPOSE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.
"(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—If a State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

"(e) RURAL HEALTH NETWORK DEFINED.—

"(I) IN GENERAL.—For purposes of this section, the term "rural health network" means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital;

"(B) at least 1 hospital that furnishes acute care services;

"(C) an entity that is responsible for the planning, development, and implementation of a rural health network in accordance with subsection (A) and (B);

"(D) in accordance with subsection (B), with at least 1 hospital that is a member of the network.

"(f) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communication systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(g) PROVISION OF EMERGENCY AND NONEMERGENCY TRANSPORTATION.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(h) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(I) is located in a State that has established a Medicare rural hospital flexibility program in accordance with subsection (d);

"(ii) is designated as a critical access hospital by the State in which it is located; and

"(iii) meets such other criteria as the Secretary may require.

"(i) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1885 to use the beds designated for inpatient cases pursuant to subsection (d) for extended care services.

"(j) GRANDFATHERING OF CERTAIN FACILITIES.—

"(I) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under subsection (d) prior to the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

"(II) SYSTEMS FOR ELECTRONIC SHARING OF PATIENT CRITICAL ACCESS HOSPITAL SERVICES—

"(I) DEFINITION.—The term "critical access hospital" means a hospital by such facility, that would be inpatient critical access hospital services.

"(mm)(1) The term "critical access hospital" means a facility certified by the Secretary under subsection (d).

"(mm)(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, the facility or rural primary care hospital described in paragraph (I), any reference in this title to a critical access hospital shall be deemed to reference to a "medical assistance facility" or "rural primary care hospital".

"(n) PAYMENT CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund payment under this part for inpatient critical access hospital services the amount of:

"(1) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, the facility or rural primary care hospital described in paragraph (I), any reference in this title to a critical access hospital shall be deemed to reference to a "medical assistance facility" or "rural primary care hospital".

"(p) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary may require an alternative for certain medical diagnoses as (determined by the Administrator of) the Federal Health Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each fiscal year 1996 through 2000.

"(q) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator of) the Federal Health Insurance Trust Fund for making grants to all States under this section.

"(r) TREATMENT OF CRITICAL ACCESS HOSPITAL SERVICES.—

"(I) Definition.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL SERVICES.

"(mm)(I) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820.

"(II) The term 'critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by a local facility that is the inpatient hospital services if furnished to an inpatient of a hospital by a hospital.

"(s) APPROPRIATIONS.—

"(1) GRANDFATHERING OF CERTAIN FACILITIES.—

"(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

"(ii) in the manner preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

"(2) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary shall have the authority to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(3) TREATMENT OF CRITICAL ACCESS HOSPITAL SERVICES—The amount of payment for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

"(4) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

"(5) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, the facility or rural primary care hospital described in paragraph (I), any reference in this title to a critical access hospital shall be deemed to reference to a "medical assistance facility" or "rural primary care hospital".

"(6) PAYMENT CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(7) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall report to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator of) the Federal Health Insurance Trust Fund for making grants to all States under this section.

"(8)付き添い手: Congressionnal Record — Senate, October 26, 1995.
(A) IN GENERAL.—Section 1886(d)(10)(D) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(3) The term 'outpatient critical access hospital', as defined in section 1886(d)(10)(D), is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(A) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.

(B) EXCLUSION OF CONSORTIA IN PARTICIPATING STATES.—A consortia may not receive payments under the demonstration project under subparagraph (A)(ii) if any of its members is located in a State receiving payments under the project under subparagraph (A)(i).

(C) APPLICABILITY.—(A) Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare an application and submit it to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in subsection (b). In the case of an application of a State, the application shall include—

(i) a description demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(ii) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project;

(iii) an explanation of a plan for evaluating the impact of the project in the State;

(B) APPROVAL OF APPLICATIONS.—A State or consortium that submits an application under subparagraph (A)(ii) may begin a demonstration project under this subsection—

(1) after the date it submits an application under this subsection; and

(2) on the date the Secretary approves such application.

(C) STIPULATION.—In no case may—

(i) more than 10 State fiscal years be covered under the demonstration project; and

(ii) more than 10 health care training programs in a State be covered under the demonstration project; and

(D) USE OF ALTERNATIVE WEIGHING FACTORS.—
(I) IN GENERAL.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—(A) GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(B) REQUIREMENTS FOR CONSORTIUM.—(I) IN GENERAL.—The State shall make payments for graduate medical education costs through payments to a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—(A) GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(ii) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the recipients of payments made under clause (i) are directed to consortium members for primary care residency programs, and that such recipients are designated to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based nonambulatory training experience.

(iii) ALLOCATION OF PORTION OF MEDICARE GME FUND FOR MEDICAL RESIDENCY TRAINING PROGRAM.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) IN the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State for direct graduate medical education costs in an amount determined under the methodology provided under section 1886(h) of the Social Security Act.

(ii) the Secretary shall subtract the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to the members of the consortium during the year for direct graduate medical education costs in an amount determined under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(iii) USE OF PAYMENTS.—(A) GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(B) REQUIREMENTS FOR CONSORTIUM.—(I) IN GENERAL.—The State shall make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—(A) GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(iii) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the recipients of payments made under clause (i) are directed to consortium members for primary care residency programs, and that such recipients are designated to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based nonambulatory training experience.

(iv) ALLOCATION OF PORTION OF MEDICARE GME FUND FOR MEDICAL RESIDENCY TRAINING PROGRAM.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) IN the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State for direct graduate medical education costs in an amount determined under the methodology provided under section 1886(h) of the Social Security Act.

(ii) the Secretary shall subtract the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to the members of the consortium during the year for direct graduate medical education costs in an amount determined under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(C) A school of allied health or a program for the training of physician assistants (as such term is defined in section 789 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(E) PRIMARY CARE.—"Primary care" means family practice, general internal medicine, general pediatrics, and obstetric care.

(F) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(G) STATE.—The term "State" has the meaning given such term in section 1886(d)(1)(D) of the Social Security Act.

Subpart B—Rural Physicians and Other Providers

SEC. 8511. PROVIDER INCENTIVES.

(a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.

(A) INCREASE IN AMOUNT OF ADDITIONAL PAYMENTS.—(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m)(3)(D) of the Social Security Act is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(d)(4))".

(B) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the period beginning on the effective date of the withdrawal of such designation)."

(B) EFFECTIVE DATE.—The amendments made by paragraphs (A) and (B) of this section shall apply to payments for services furnished in an area for which the designation as a health professional shortage area under such section is withdrawn after January 1, 1996.

(2) REQUIRING CARRIERS TO REPORT ON SERVICES FURNISHED—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the study conducted under subparagraph (A), and the Secretary shall include in the report such recommendations as the Secretary considers appropriate.

(3) STUDY.—(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the effectiveness of the provision of additional payments under part B of the Medicare program for physicians' services provided in health professional shortage areas under such section.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the study conducted under subparagraph (A), and include in the report such recommendations as the Secretary considers appropriate.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (A), (B), and (C) of this section shall apply to payments for services furnished on or after January 1, 1996.
TRACTS PROGRAM.—

SEC. 137. NATIONAL HEALTH SERVICE CORPS OF PRACTICE LAW.—

of this section. a managed health care plan (as defined for purposes of this section. the term ‘qualified loan repayment’ means any payment made on or after March 31, 1997. by the Department of Health and Human Services to a loan repayments program the medicare program of items and services furnished by providers of telemedicine services pursuant to chapter 55 of title 10. United States Code, subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.."

(2) DEADLINE.—The Secretary shall publish the model law developed under paragraph (1) not later than 1 year after the date of the enactment of this Act.

SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) PAYMENTS UNDER MEDICARE RISK CONTRACTS PROGRAM.—

SEC. 8621. CONFORMING AMENDMENTS TO THE THIRD PARTY LIABILITY PROGRAM FOR MILITARY MEDICAL FACILITIES.—

(b) MEDICAID—Section 1902(a)(25)(A)(i). is repealed.

(c) COVERAGE—Nothing in title XVIII of the Social Security Act may be construed to deny coverage for those services provided by facilities of the uniformed services pursuant to chapter 55 of title 10. United States Code, subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.."

(2) Paragraph (1) shall not apply to services provided by a hospital. a nursing facility. or a home health agency. as defined in section 1862(b) of the Social Security Act. Under any additional measures.

(d) MEDICAID.—Section 1902(a)(25)(A)(i). is repealed.

(e) CONFORMING AMENDMENTS.—Paras...
medicare program) solely on the grounds that the device is not an approved device.

(1) the device is an investigational device; and
(2) the device is used instead of an approved device.

(B) CLASSIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment that would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

DEFINITIONS.—In this section—

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) In general.—Section 1882(a) (42 U.S.C. 1395f(a)) is amended by striking paragraphs (3) and (4).

(b) Application of Section 1882(a) (42 U.S.C. 1395f(a)) is amended by striking paragraphs (3) and (4).

(c) Technical Amendments.—

(1) Section 218 of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(2) The amendment made by subsection (a) shall apply to payment for items and services furnished after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF.

(a) In general.—Section 1887 of the Internal Revenue Code of 1986 is amended by striking sub-paragraph (A) and inserting 

(b) In general.—Section 1887 of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and inserting 

(c) Technical Amendments.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking paragraphs (3) and (4).

(2) The amendment made by this section shall apply after December 31, 1996.

(3) The amendment made by this section shall apply after December 31, 1995.

(4) The amendment made by this subsection shall apply to services furnished on or after the date of the enactment of this Act.

(b) Technical Amendments.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking paragraphs (3) and (4).

(2) The amendment made by this subsection shall apply to services furnished on or after the date of the enactment of this Act.

(3) The amendment made by this subsection shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 8606. EXCLUSION FROM COVERAGE, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) In general.—Section 1882(a)(2) (42 U.S.C. 1395f(a)(2)) is amended by striking subparagraph (B) and inserting 

(b) In general.—Section 1882(a)(2) (42 U.S.C. 1395f(a)(2)) is amended by striking subparagraph (B) and inserting 

(c) Technical Amendments.—

(1) In general.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) Transition in Benefits for State and Local Government Employees and Former Employees.—

(1) In general.—

(2) The amendment made by this subsection shall apply to services performed after December 31, 1996.

(3) The amendment made by this subsection shall apply to services performed after December 31, 1996.

(4) The amendments made by this subsection shall apply after December 31, 1996.

ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY

SEC. 7161. ESTABLISHMENT.—There is established a Commission to be known as the Medicare Commission to Prepare for the 21st Century (hereafter in this Act referred to as the "Commission").

MEMBERSHIP.—

(1) In general.—The Commission shall be composed of 7 members appointed by the

President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with necessary recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Meetings.—The Commission shall meet at the call of the Chairman.

(e) Quorum.—A majority of the members of the Commission shall constitute a quorum.

(f) Chairperson.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) Analyses and Recommendations.—

(i) In general.—The Commission is charged with long-term planning (for years after 2010) for the medicare program.

(ii) The Commission shall—

(i) review long-term and potential financing strategies for the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(ii) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high-quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled;

(ii) overall trends in national health care costs;

(iii) the number of Americans without health insurance;

(iv) the impact of its recommendations on the private sector and on the medicare program;

(v) consider a range of program improvement options including, but not limited to—

(l) reduce waste, fraud, and abuse;

(ii) improve program efficiency;

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive and primary care services;

(v) improve beneficiary cost consciousness, including an analysis of proposals that provide a new structure medicare from a defined benefits program to a defined contribution program and the means to achieve it;

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice;

(vii) other findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be given to seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(B) appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) Definition of Medicare Trust Funds.—For purposes of this subsection, the term "medicare trust funds" means the Federal...
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Hospital Insurance Trust Fund established under the Social Security Act (42 U.S.C. 1351) and the Federal Supplemental Medical Insurance Trust Fund established under section 1941 of such Act (42 U.S.C. 1395t).

(b) REPORT.—The Commission shall submit its report to the President and the Congress not later than July 31, 1996.

SEC. 7165. TERMINATION OF THE COMMISSION.

(a) COMMISSION PERSONNEL MATTERS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(c) PRIVATE CITIZENS OF THE UNITED STATES.—(1) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for members of agencies under subchapter III of chapter 53 of title 5, United States Code, at rates for individuals covered by the Executive Schedule and General Schedule pay rates, except that the rate payable for level V of the Executive Schedule under section 5316 of such title shall be without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may provide temporary and intermittent services under section 3109(b) of title 3, United States Code, at rates for individuals covered by the Executive Schedule and General Schedule pay rates, except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18, is age 19 years, at the option of the State, has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

(2) IN GENERAL.—Subject to the imposition of the hardship exception to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

(i) the family resides in an area with an unemployment rate exceeding 8 percent; or

(ii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

(c) EXCEPTION FOR TEEN PARENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

(i) the family resides in an area with an unemployment rate exceeding 8 percent; or

(ii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

(d) EXCEPTION FOR TEEN PARENTS FROM WORK REQUIREMENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

(i) the family resides in an area with an unemployment rate exceeding 8 percent; or

(ii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

(e) EXCEPTION FOR CHILD-ONLY CASES.—With respect to any child who has not attained age 18 or age 19, at the option of the State, and who is eligible for assistance under this part, but not as a member of a family otherwise eligible for assistance under this part (determined without regard to this paragraph), the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

(i) the family resides in an area with an unemployment rate exceeding 8 percent; or

(ii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

(f) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that a family is no longer eligible for cash assistance under the plan to the extent that, for purposes of determining eligibility for any other Federal or federally assisted program based on need, such family shall continue to be considered eligible for such cash assistance; and

(g) LIMITATIONS ON ELIGIBILITY.—(1) LIMITATION ON ELIGIBILITY.—Except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18, is age 19 years, at the option of the State, has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

(2) EXCEPTION FROM ELIGIBILITY.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

(i) the family resides in an area with an unemployment rate exceeding 8 percent; or

(ii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.
"(I) determined on the same basis as the State plan (under part F) in determining assistance under the State plan to such a family with 1 less individual; 

(II) designed appropriately to pay third parties and expenses incurred by the child or children; and

(III) payable directly to such third parties.

"(2) TREATMENT OF INTERSTATE MIGRANTS.—The State plan may apply to a category of families the rules for such category under part F for another State approved under this part. If, within 30 days of the first day on which the individual has moved to the State from the other State and has resided in the State for less than 12 months, the individual:

(I) is receiving assistance under the State plan of another State; or

(II) is a high misdemeanor under the laws of the State to which he or she moved, is a high misdemeanor under the laws of any State; or

(III) otherwise is not deemed to be an individual eligible for assistance under the plan.

"(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT ASSISTANCE.—The State plan shall provide that no assistance shall be furnished any individual under the plan with respect to which any period with respect to which such individual is receiving old-age assistance under the State plan or is a recipient of supplemental security income payments under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a needy child under this part, and such child's income and resources shall be disregarded in determining the eligibility of the family (including the child) for temporary employment assistance.

"(4) DENIAL OF ASSISTANCE FOR ID THEFT.—(A) The State plan shall provide that the State agency shall not provide temporary employment assistance to any individual if the State agency determines that the individual has taken action or not taken action that constitutes the following:

(i) False statement of a material fact in connection with the application for assistance under this part; or

(ii) Related action (including the willful, knowing, or negligent destruction or manipulation of any record, document, or other evidence of the identity of another individual).

"(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED OR FALSOLY REPRESENTED TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—The State plan shall provide that no assistance shall be furnished any individual under the plan during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs of the Federal Government, or the Social Security Act, or XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(6) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—(A) IN GENERAL.—The State plan shall provide that no assistance will be furnished any individual under the plan for any period if during such period the State agency has knowledge that such individual is:

(i) fleeing to avoid prosecution, or custodily or confinement after conviction, under Federal or State law, or local law in the State or the State of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs of the Federal Government, or the Social Security Act, or XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI; or

(ii) violating a condition of probation or parole imposed under Federal or State law.

(B) EXCLUSION OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer with the current address of the recipient of assistance under the plan, if the officer furnishes to the State the name of the recipient and notifies the agency that:

(i) such recipient—

(1) is described in clause (i) or (ii) of subparagraph (A) of this paragraph;

(2) has information that is necessary for the officer to conduct the officer's official duties; and

(3) has the cooperation of the officer in providing the information to the officer in a timely manner.

"(C) VERIFICATION SYSTEM.—The State plan shall provide that the State agency shall have in place a system to verify the identity of any individual applying for or receiving assistance under the plan, including a description of a method of verification that is appropriate to the level of assistance being provided.

"(D) IMPOSITION OF PENALTY ON FUGITIVE FELONS.—The State plan shall provide that if an individual is convicted of a felony offense under Federal or State law, or local law in the State or the State of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs of the Federal Government, or the Social Security Act, or XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI, that individual shall be required to undergo a criminal background check.

"(E) REQUIREMENT THAT RECIPIENTS ENTER THE WORK FIRST PROGRAM.—(1) IN GENERAL.—Beginning with fiscal year 2004, the State shall place recipients of assistance under the State plan approved under part F, unless the State agency determines that the individual will not receive adequate or appropriate education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector.

(2) EXCEPTIONS.—A State may be required to place a recipient of such assistance in the program established under part F if the recipient—

(I) is determined to be ineligible for assistance under the plan, or

(II) is determined to be ineligible for assistance under the plan due to the individual's failure to participate in the program established under part F.
(A) is ill, incapacitated, or of advanced age;

(B) has not attained 18 years of age;

(C) is caring for a child or parent who is ill or incapacitated; or

(D) is enrolled in school or in educational or training programs that will lead to private sector employment.

II. REVISION

(I) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G, the State shall provide that

(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—(1) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart I of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (except as otherwise provided in paragraph (3)) shall be reduced by—

(i) 3 percent for the 1st such act of noncompliance or

(ii) 4 percent for the 2nd such act of noncompliance.

(II) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(III) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 3 calendar months shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK.—Look for work or accept a bona fide offer of employment.—

(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work under the State plan approved under this part:

(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

(aa) a period of not less than 6 months after the date of the first such refusal; or

(bb) the date the individual agrees to work or look for work; or

(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment under the State plan approved under this part:

(a) shall first date the individual agrees to work or look for work; or

(b) the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

SEC. 404. PAYMENT OF ASSISTANCE.

(a) STANDARDS OF ASSISTANCE.—The State plan shall specify standards of assistance, including—

(i) the composition of the unit for which assistance will be provided;

(ii) a program designed from money amounts, to be used in determining the need of applicants and recipients;

(iii) a standard, expressed in money amounts, for determining the amount of the assistance payment; and

(iv) the methodology to be used in determining the amount received by assistance units.

(b) LEVEL OF ASSISTANCE.—Except as otherwise provided in this title, the State plan shall provide that

(I) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

(II) families of similar composition with similar needs and circumstances shall be treated similarly.

(c) CORRECTION OF PAYMENTS.—The State plan shall provide that

(A).Failure to comply with individual responsibility plans signed by

the individual who fails without good cause to comply with

such plans.

(1) upon the recommendation of the case

carries out a family

worker who is handling the case of a family

for assistance under the State plan.

(2) a workfare program that meets the re-

quirements of paragraphs (1) and (2).

(B) DENIAL OF ASSISTANCE TO ADULTS RE-

FUSING TO WORK. Look for work or accept a bona fide offer of

employment.—

(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work under the State plan approved under this part:

(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

(aa) a period of not less than 6 months after the date of the first such refusal; or

(bb) the date the individual agrees to work or look for work; or

(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment under the State plan approved under this part:

(a) shall first date the individual agrees to work or look for work; or

(b) the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

(1) a work first program that meets the requirements of part F; and

(ii) a workfare program that meets the re-

quirements of paragraph (1).  Such program shall be associated with no less than 50 percent of the funds provided under the State plan approved under this part.

(b) PROVISION OF POSITIONS AND VOUCHERS.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part F to any job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is working in the work first program operated by the State and shall not provide such a position or such a voucher to any other individual.

(c) FAMILY PRESERVATION.—(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

(i) the provision of programs and services.

II. REVISION

(I) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G, the State shall provide that

(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—(1) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart I of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (except as otherwise provided in paragraph (3)) shall be reduced by—

(i) 3 percent for the 1st such act of noncompliance or

(ii) 4 percent for the 2nd such act of noncompliance.

(II) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(III) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 3 calendar months shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK. Look for work or accept a bona fide offer of employment.—

(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work under the State plan approved under this part:

(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

(aa) a period of not less than 6 months after the date of the first such refusal; or

(bb) the date the individual agrees to work or look for work; or

(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment:

(a) shall first date the individual agrees to work or look for work; or

(b) the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

(1) a work first program that meets the requirements of part F; and

(ii) a workfare program that meets the re-

quirements of paragraph (1).  Such program shall be associated with no less than 50 percent of the funds provided under the State plan approved under this part.

(b) PROVISION OF POSITIONS AND VOUCHERS.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part F to any job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is working in the work first program operated by the State and shall not provide such a position or such a voucher to any other individual.

(c) FAMILY PRESERVATION.—(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

(i) the provision of programs and services.
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"(A) to encourage fathers to stay home and be a part of family life;

"(B) to keep families together to the extent possible; and

"(C) except to the extent provided in paragraph (2), any adjustment of family size for purposes of determining eligibility of dependent families equally with respect to eligibility for assistance.

"(3) MAINTENANCE OF TREATMENT.—The State plan may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than any other eligibility limitation in effect in the State plan in fiscal year 1995.

"SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

"(a) STATE PLAN.—The State plan shall be in effect in all political subdivisions of the State, and, if administered by such subdivisions, be mandatory upon such subdivisions. If such plan is not administered uniformly throughout the State, the plan shall describe the administrative variations.

"(b) SINGLE ADMINISTRATING AGENCY.—The State plan shall provide for the establishment or designation of a single State agency to administer the plan or supervise the administration of the plan in such subdivisions as the State finds necessary.

"(c) FINANCIAL PARTICIPATION.—The State plan shall provide for financial participation by the State in the same manner and amount as under title XIX except that with respect to the amounts expended for the administration of the State plan, the percentage shall be 50 percent.

"(d) REASONABLE PROMPTNESS.—The State plan shall provide that all individuals wishing to receive temporary employment assistance shall have opportunities to do so, and that such assistance be furnished with reasonable promptness to all eligible recipients.

"(e) AUTOMATED DATA PROCESSING SYSTEM.—The State plan shall, at the option of the State, provide for the establishment and operation of an automated statewide managed information system designed effectively and efficiently to assist management in the administration of the State plan approved under this part, so as—

"(1) to control and account for—

"(A) all the factors in the total eligibility determination process under such plan for assistance; and

"(B) the costs, quality, and delivery of payments and services furnished to applicants for assistance;

"(2) to notify the appropriate officials for child support, food stamp, and social service programs and the medical assistance program approved under title XIX, whenever a recipient becomes ineligible for such assistance or the amount of assistance provided to a recipient under the State plan is changed.

"(f) DISCLOSURE OF INFORMATION.—The State plan shall provide for safeguards which restrict the use or disclosure of information concerning applicants or recipients.

"(g) DETECTION OF FRAUD.—The State plan shall provide, in accordance with regulations issued by the Secretary, for appropriate measures to detect fraudulent applications for temporary employment assistance before the establishment of eligibility for such assistance.

"Subpart 2—Administrative Provisions

"SEC. 411. APPROVAL OF PLAN.

"(a) IN GENERAL.—The Secretary shall approve or disapprove the plan within 120 days of the submission of the plan by the State to the Secretary.

"(b) DEEMED APPROVAL.—If a State plan has not been rejected by the Secretary during the period specified in subsection (a), the plan shall be deemed to have been approved.
closed due to employment, and other data needed to meet the work performance rate. A request for a waiver of this part by a State that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, along with a description of such services.

(c) Collection Procedures—the Secretary shall also conduct research on innovative and promising strategies to—

(i) improve child well-being through reductions in illegitimacy, teen pregnancy, welfare dependency, homelessness, and poverty;

(ii) test promising strategies by nonprofit and for-profit institutions to increase employment, earning, child support payments, and self-sufficiency for temporary employment assistance clients under State plans; and

(iii) foster the development of child care.

(d) Federal Demonstration Projects—Demonstrations implemented under this paragraph—

(i) may provide one-time capital funds to establish, expand, or replicate programs;

(ii) may test performance-based grant to loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a pro-rated basis; and

(iii) shall not be limited to communities in multiple States and types of communities.

(3) Federal Evaluations—

(A) in general—the Secretary shall conduct research to determine the extent feasible and consistent with the minimum extent feasible and consistent with the

(b) Regulations—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

(i) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

(ii) who are no longer receiving temporary employment assistance under the State plan approved under this part.

(D) from Federal Tax Refunds—The Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the

(3) STATE REIMBURSEMENT—The Secretary may reimburse a State for any reasonable costs actually incurred to research conducted under this paragraph.

(4) Regional Information Centers—

(A) in General—the Secretary shall establish such regional information centers as the Secretary deems appropriate.

(B) Center Responsibilities—The Secretary shall have the following functions:

(i) Disseminate information about effective income support and related programs.

(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

(iii) Assist the States in the region to formulate and implement innovative programs and interventions that improve the economic self-sufficiency of individuals who are tracked over time.

(iv) Provide training as appropriate to state and local policy-makers, operators of the agencies to successfully place work first clients in productive employment or self-employment.

(C) Center Eligibility to Perform Evaluations—The Centers may compete for demonstration and evaluation contracts developed under this section.

SEC. 416. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

(a) in General—Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this section, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are due to such individual, and order the Secretary of the Treasury to withhold from such refunds an amount equal to the overpayment sought to be collected by the Secretary of the Treasury and pay such amount to the State agency.

(b) Regulations—The Secretary shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

(i) a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

(ii) who are no longer receiving temporary employment assistance under the State plan approved under this part.

(c) State Reimbursement—The Secretary may reimburse a State for any reasonable costs actually incurred to research conducted under this paragraph.

(D) Use of Random Assignment—Evaluations authorized under this paragraph should be conducted using the maximum extent feasible and appropriate.

(4) Regional Information Centers—

(A) in General—the Secretary shall establish such regional information centers as the Secretary deems appropriate.

(B) Center Responsibilities—The Secretary shall have the following functions:

(i) Disseminate information about effective income support and related programs.

(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

(iii) Assist the States in the region to formulate and implement innovative programs and interventions that improve the economic self-sufficiency of individuals who are tracked over time.

(iv) Provide training as appropriate to state and local policy-makers, operators of the agencies to successfully place work first clients in productive employment or self-employment.

(C) Center Eligibility to Perform Evaluations—The Centers may compete for demonstration and evaluation contracts developed under this section.
specific provisions of this section. will be the same as those issued pursuant to section 464(b) applicable to collection of past due child support.

(b) PAYMENTS TO PUERTO RICO.—Section 1108(a)(1) (42 U.S.C. 1396a(a)(1)) is amended—

(1) by striking paragraph (F), by striking "or"; and

(2) by striking subparagraph (C) and inserting in its place the following:

"(C) $28,000,000 with respect to each of fiscal years 1989 through 1995. or (D) $120,000,000 with respect to the fiscal year 1996 and all fiscal years thereafter.".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(I) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds is amended—

(A) in subsection (a), by striking "(c)" and (d) and inserting "(c), (d), and (e)", and

(B) by redesignating subsections (e) through (j) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(g) COLLECTION OF OVERPAYMENTS UNDER TITLE III—A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded by a State, following the effective date of title III—A of the Social Security Act (concerning recovery of overpayments to individuals under title II) which is not approved under part A of title IV of such Act.".

(2) Section 552(a)(B)(b)(iv)(I) of title 5, United States Code, is amended by striking "section 552(a)(B)(b)(iv)(III) of the Social Security Act" and inserting "section 416, 446, or 1137 of the Social Security Act".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines is in default of the State legislative action (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection (a) to section 9010(b)(4), the Secretary (in regulations) shall be considered to have complied with the requirements of such amendment before the first day of the first calendar quarter after the second regular session of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

Subtitle B—Make Work Pay

SEC. 9101. ADDITIONAL MEDICAID BENEFITS.

(a) STATE OPTION OF EXTENSION OF MEDICAID ENROLLMENT FOR FORMER AFDC RECIPIENTS FOR AN ADDITIONAL YEAR.—

(1) IN GENERAL.—Section 1925(b)(1) (42 U.S.C. 1396r-6(b)(1)) is amended by striking the period at the end and inserting the following: "and that the State may, at its option, provide that the extension covering under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions that the option of extending coverage under this subsection for the first succeeding 6-month period.

(2) CONFORMING AMENDMENTS.—Section 1925(b) (42 U.S.C. 1396r-6(b)) is amended—

(A) in the heading by striking "EXTENSION" and inserting "EXTENSIONS":

(B) in the heading of paragraph (1), by striking "REQUIREMENT" and inserting "IN GENERAL":

(C) in paragraph (2)(B)(i)—

(i) in the heading, by striking "PERIOD" and inserting "PERIODS": and

(ii) by striking "in the period" and inserting "in any of the 6-month periods":

(D) in paragraph (3)(A), by striking the 6-month period and inserting "any 6-month period".

(E) in paragraph (4)(A), by striking the "extension period" and inserting "any extension period":

(F) in paragraph (5)(D)(i), by striking "is a 3-month period" and all that follows and inserting the following: "is, with respect to a particular 6-month additional extension period provided under this subsection, a 3-month period beginning with the 1st or 4th month of such extension period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9102. NOTICE OF AVAILABILITY TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(h) NOTICE OF AVAILABILITY OF EITC.—The State plan shall provide that the State agency referred to in subsection (b) must provide written notice of the existence and availability of the earned income credit under section 32 of the Internal Revenue Code of 1986 to—

(1) any individual who applies for assistance under the State plan, upon receipt of the application: and

(2) any individual whose assistance under the State plan (or under the State plan approved under part A of title IV of such Act) is terminated, in the notice of termination of benefits.

(b) FOOD STAMPS.—Section 11(i)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking "and" at the end:

(2) in paragraph (25) by striking the period at the end and inserting "and"; and

(3) by inserting after paragraph (25) the following:

"(36) that whenever a household applies for food stamp benefits, and whenever such benefits are terminated with respect to a household, the State agency shall provide to each member of such household notice of—

(A) the existence of the earned income tax credit under section 32 of the Internal Revenue Code of 1986: and

(B"), the fact that such credit may be applicable to such member.

(c) MEDICAID.—Section 1902(a)(18) (42 U.S.C. 1396a(a)(18)) is amended—

(1) by striking paragraph (62) and inserting "and": and

(2) by striking the period at the end and inserting the following:

"(63) that the Secretary of Health and Human Services may designate not more than 4 State Advance Payment Programs pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

(d) DESIGNATIONS.—

(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of paragraph (3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Designations. State Advance Payment Designations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program since such designation is made in any fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 413(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1996.

(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

(1) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made before December 31, 1996, and before January 1, 2000.

(2) SPECIAL RULES.—

(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke any designation made under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

(II) AUTOMATIC TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (3)(A)(ii) inapplicable to subsequent payments.

(3) PROPOSALS.—No State may be designated under paragraph (2) unless the State's proposal for such designation—

(A) identifies the responsible State agency.

(B) describes how and when the advance earned income payments will be made by that agency, including a description of any Federal or State benefits with which such payments will be coordinated.

(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4).

SEC. 9202. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT THROUGH STATE ADVANCE PAYMENT.

(a) IN GENERAL.—Section 1111 of the Omnibus Budget Reconciliation Act of 1990 (26 U.S.C. 21 note) relating to program to increase public awareness is amended by adding at the end the following sentence: "Such means shall include print notice of the availability of such credits on the forms used by employees to determine the amount of withholding for payroll exemptions under chapter 24 of such Code.

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.
AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—
(A) AMOUNT—
(i) IN GENERAL—The method for determining the amount of advance earned income payments made to each participating resident shall conform to the fullest extent possible with the provisions of subsection (c).
(ii) SPECIAL RULE—A State, at its election, may at its election, apply the rules of subsection (c)(2)(B) by substituting between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children for the amount of the credit percentage in effect under section 32(b)(1) for such an eligible individual with one qualifying child in clause (i) and ‘the same percentage (as applied in clause (i)) for 90 percent in clause (ii).

(B) TIMING.—The frequency of advance earned income payments may be determined on the basis of the payroll periods of participating residents, on a single statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advance earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

(C) PAYMENTS TO BE TREATED AS PAYMENTS OF UNWITHHOLDING AND FICA TAXES.—
(i) For purposes of this section, any advance earned income payments made by the State shall be treated as payments of withholding and FICA taxes that are attributable to employment for wages in the current calendar quarter.
(ii) For purposes of this section, any advance earned income payments made by the State shall be treated as wages for the purposes of section 3401 (relating to wages withholding), and shall be included in gross income, and

(D) PAYMENTS TO BE TREATED AS PAYMENTS OF UNWITHHOLDING AND FICA TAXES.—
(i) For purposes of this section, any advance earned income payments made by the State shall be treated as wages for the purposes of section 3401 (relating to wages withholding), and shall be included in gross income, and

(ii) shall be treated as made out of an amount required to be deducted by the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

(B) ADVANCE EARNED INCOME PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(iii) without regard to paragraph (a)(3)(B) of this section, the advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

(C) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—
(A) IN GENERAL—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and as being required to pay to the United States, the repayment amount during the repayment calendar quarter.

(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this subsection, the term ‘excessive advance income payment’ means that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

(C) REPAYMENT AMOUNT.—For purposes of this subsection, the term ‘repayment amount’ means an amount equal to 50 percent of the excess of—
(i) advance earned income payments made by the State during a particular calendar year, over—
(ii) the sum of—
(I) payments of all advance earned income payments made by the State during that calendar year, and
(ii) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

(D) STATE PAYMENT.—For purposes of this subsection, the term ‘repayment calendar quarter’ means the second calendar quarter of the third calendar year beginning after the calendar year in which an excessive advance income payment is made.

(E) DEFINITIONS.—For purposes of this subsection—
(A) STATE ADVANCE PAYMENT PROGRAM.—The term ‘State Advance Payment Program’ means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

(B) RESPONSIBLE STATE AGENCY.—The term ‘Responsible State agency’ means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

(C) ADVANCE EARNED INCOME PAYMENTS.—The term ‘advance earned income payments’ means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

(D) PARTICIPATING RESIDENT.—The term ‘participating resident’ means an individual who—
(i) is a resident of a State that has in effect a designated State Advance Payment Program.
(ii) meets the election described in paragraph (3)(D) pursuant to guidelines prescribed by the State.

(iii) certifies to the State the number of qualifying children the individual has, and

(iv) provides to the State the certifications and statement described in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause, the term ‘employer’ shall be substituted for ‘other employer’ in subsection (b)(3)), along with any other information required by the State.

(T) TECHNICAL ASSISTANCE.—The Secretaries of the Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(C) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—
(i) residents participate in the State Advance Payment Programs.
(ii) participating residents file Federal and State tax returns.

(iii) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the calendar year.

(iv) recipients of excessive advance earned income payments repay those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(A) APPLICABILITY.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury the following:

SEC. 481. STATE ROLE.

(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

(i) OBJECTIVE.—The objective of the program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

(ii) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved by the Secretary with the private labor market as soon as possible and offer them the support and skills necessary to remain in the labor market. Each component of the program should be permeated with an emphasis on employment and with an understanding that minimum wage jobs are a stepping stone to more highly paid employment. The program shall provide recipients with education, training, job search and placement, wage supplementation, temporary subsidized jobs, or such other services that the State deems necessary to help a recipient obtain private sector employment.

(iii) JOB CREATION.—The creation of jobs, with an emphasis on private sector jobs, shall be a component of the program and shall be a priority for each State office with responsibilities under the program.
SEC. 482. REVAMPED JOBS PROGRAM.

(a) IN GENERAL.—The State agency shall develop an agreement of mutual responsibility for each program participant, which will be an individualized comprehensive plan, developed by the team and the participant, to move the participant into full-time unsubsidized employment. The agreement should detail the education, training, or skills that the participant will need to obtain full-time unsubsidized employment and the obligations of the individual.

(b) PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

(1) 20 hours per week during fiscal years 1997 and 1998; and

(2) 30 hours per week thereafter.

(2) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

(3) NONDISPLACEMENT.—The program may not be operated in a manner that results in—

(A) the displacement of a currently employed worker or position by a program participant;

(B) the replacement of an individual who has been terminated with a program participant;

(C) the replacement of an individual who is on layoff from the same position given to a program participant or any equivalent position.

(4) ANNUAL REPORTS.—

(a) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary an annual report that compare the achievement of the program with the performance-based measures established under section 488(c).

(b) COMPLIANCE WITH PARTICIPATION RATES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

SEC. 483. USE OF PLACEMENT COMPANIES.

(a) IN GENERAL.—A State that establishes a program under this part may operate a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

(b) MICROENTERPRISE DEFINED.—For purposes of subsection (a), 'microenterprise' means a commercial enterprise which has 5 or fewer employees. I "microenterprise" means a commercial enterprise which has 5 or fewer employees.

(c) COMPETITIVE BIDDING REQUIRED.—Conducts under this section shall be awarded only after competitive bidding.

(d) VOUCHERS.—The State shall issue a voucher to each program participant whose agreement of mutual responsibility provides for the use of vouchers under this section, indicating that the participant is eligible for the services of such a company.

SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

(a) A State that establishes a program under this part may establish a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

(b) IN GENERAL.—A State that establishes a program under this section shall—

(1) pay for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid immediately before the date this part first applies to the State of Oregon.

(2) STATE DETERMINATION.—The agreement shall provide that the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

(c) RULES RELATING TO SUPPLEMENTED JOBS.—

(1) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section, the State may use a sampling methodology.

(2) Notwithstanding any other provision of law, a State operating a work supplementation program may provide that any individual who is an eligible individual (as determined under paragraph (3)) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the States determine to be necessary and appropriate to further the purposes of the work supplementation program.

(3) RULES RELATING TO SUPPLEMENTED JOBS.—

(a) A work supplementation program operated by a State under this section may provide that any individual who is an eligible individual (as determined under paragraph (3)) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the States determine to be necessary and appropriate to further the purposes of the work supplementation program.

(b) Notwithstanding any other provision of law, a State operating a work supplementation program may provide that any individual who is an eligible individual (as determined under paragraph (3)) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the States determine to be necessary and appropriate to further the purposes of the work supplementation program.

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(b) Notwithstanding any other provision of law, a State operating a work supplementation program may provide that any individual who is an eligible individual (as determined under paragraph (3)) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the States determine to be necessary and appropriate to further the purposes of the work supplementation program.

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(b) Notwithstanding any other provision of law, a State operating a work supplementation program may provide that any individual who is an eligible individual (as determined under paragraph (3)) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the States determine to be necessary and appropriate to further the purposes of the work supplementation program.
"(2) the number of months in which the individual was employed in the program.

(3) [omitted]

(1) This section shall not be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom the State or local agency provides a job under the work supplementation program (or with respect to whom the State or local agency provides all or part of the wages paid to the individual by another entity under the program, or as requiring any State or local agency to provide employee status to an eligible individual filling a job position provided by another entity under the program to be provided employee status by the entity during the first 13 weeks that the individual was employed under the program.

(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

(3) PRESERVATION OF MEDICAID ELIGIBILITY.—Any State that chooses to operate a work supplementation program under this section shall provide that any individual who participates in the program, and any child or relative of the individual (or other individual living in the same household with the individual) who would be eligible for assistance under the State plan approved under part A if the individual had not participated in the work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of determining eligibility for medical assistance under the State plan approved under part A unless the individual was employed in the program.

"SEC. 487. PARTICIPATION RULES.

"(a) IN GENERAL.—Except as provided in subsection (b), a State that establishes a program under this part shall require each individual for whom those services are provided, or as required by paragraph (2) of section 410 of the Social Security Act, for whom the program establishes an employment target, to participate in the program.

(b) 2-YEAR LIMITATION ON PARTICIPATION.—

(1) IN GENERAL.—A State may require an individual receiving assistance under the State plan approved under part A to participate in the program for 2 years after the period for which the individual was determined to be eligible for assistance under the State plan approved under part A.

(2) AUTHORITY TO ALLOW REPEAT PARTICIPATION.—

(A) IN GENERAL.—Subject to subparagraph (B), an individual may participate in a State program established under this part after the individual has participated in the State program established under this part for 24 months after the date the individual most recently signed an agreement of mutual responsibility.

(B) EXCEPTIONS.—In no event shall a State permit an individual to participate in a State program established under this part for more than 48 months after the date the individual most recently signed a plan of mutual responsibility.

"SEC. 488. CASELOAD PARTICIPATION RATES: PERFORMANCE MEASURES.

"(a) PARTICIPATION RATES.—

(1) AUTHORITY TO INCREASE LIMITATION.—A State that operates a program under this part shall achieve a participation rate for the following fiscal years of not less than the following percentage of individuals allowed under subparagraph (A) of section 419 of the Social Security Act:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>1997</td>
<td>20%</td>
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<tr>
<td>1998</td>
<td>24%</td>
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<tr>
<td>2000</td>
<td>32%</td>
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<tr>
<td>2002</td>
<td>40%</td>
</tr>
<tr>
<td>2003 or later</td>
<td>52%</td>
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(2) PARTICIPATION RATE DEFINED.—

(A) IN GENERAL.—As used in this subsection, the term "participation rate" means, with respect to a State and a fiscal year, an amount equal to—

(i) the average monthly number of individuals who have participated in the State program established under this part or (if applicable) part G or H, divided by the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility has been established under section 403 during the fiscal year.

(B) SPECIAL RULE.—For each of the 1st 12 months after an individual ceases to receive assistance under a State plan approved under part A by reason of having become employed for more than 25 hours per week in an unsubsidized job in the private sector, the individual shall be considered to be participating in the State program established under this part, and to be an adult recipient of assistance, for purposes of this section.

"(3) STATE COMPLIANCE REPORTS.—

Each State that operates a program under this part shall submit to the Secretary a report on the participation rate for the State for the fiscal year.

"(4) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

(A) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by paragraph (1), the Secretary shall withdraw approval of the State plan under part A for the following fiscal years.

(B) PERFORMANCE-BASED MEASURES.—The Secretary shall, in consultation with the State, develop performance measures that shall be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"SEC. 489. FEDERAL ROLE.

"(a) APPROVAL OF STATE PLANS.—

(1) IN GENERAL.—Within 60 days after the date a State submits to the Secretary a plan that provides for the establishment and operation of a work program that meets the requirements of section 488, the Secretary shall approve the plan.

(2) AUTHORITY TO EXTEND APPROVAL DEADLINES.—Subject to subparagraph (A) of section 402(b) of the Social Security Act, if a State fails to meet the requirements of section 488, the Secretary may extend the approval deadline for the State plan.

"(b) PERFORMANCE REPORTS.—

Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the programs established under this part and part G with the performance-based measures established under paragraph (1).

"SEC. 490. ESTABLISHMENT AND OPERATION OF WORKFARING PROGRAMS.

"(a) IN GENERAL.—A State that establishes a work first program under part F may establish and carry out a workfare program that meets the requirements of section 417 of the Social Security Act and the State has established a program under part G of the program the performance-based measures established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"(b) PERFORMANCE BASED MEASURES.—The Secretary shall, in consultation with the State, develop performance measures that shall be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"(c) CASE MANAGEMENT TEAMS.—The Secretary shall, in consultation with the State, develop standards to be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"(d) PROVISION OF JOBS.—The Secretary shall provide each participant in the program with
a community service job that meets the requirements of subsection (e) or a subsidized job that meets the requirements of subsection (f) or (g).

(e) COMMUNITY SERVICE JOBS.—

(1) IN GENERAL.—For purposes of paragraphs (2) and (3), each participant shall work for not fewer than 30 hours per week (or, at the option of the State, 20 hours per week) during any calendar year. States shall require each participant to work for not fewer than 25 hours per week during fiscal year 1999, not fewer than 30 hours per week during fiscal years 2000 and 2001, and not fewer than 32 hours per week thereafter in a community service job, and be paid at a rate which is not greater than 75 percent (or, at the option of the State, 100 percent) of the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with a single income.

(2) EXCEPTION.—(A) If the participant has obtained unsubsidized part-time employment in the private sector, the State shall provide the participant with a part-time community service job.

(B) If the State provides a participant a part-time community service job under subparagraph (A), the State shall ensure that the participant works for not fewer than 30 hours per week.

(C) WAGES PAID TO PARTICIPANTS—Wages paid under a workfare program shall not be considered earned income for purposes of any provision of law.

(D) JOB DEFINED—For purposes of this section, the term ‘community service job’ means—

(A) a job provided to a participant by the State administering the State plan under part A; or

(B) a job provided to a participant by any other person for which all or part of the wages are paid by the State.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

(f) TEMPORARY SUBSIDIZED JOB CREATION.—A State that establishes a workfare program under this part may establish a program, to be called the Oregon State Jobs Plus Plan.

(g) WORK SUPPLEMENTATION PROGRAM.—

(1) IN GENERAL.—A State that establishes a workfare program under this part may establish a program, to be called the Oregon State Jobs Plus Plan.

(2) JOBS AVAILABLE.—A State may use to obtain employment in the private sector, for wages sufficient to eliminate at least 50 percent of the poverty threshold for a family of three, the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with a single income.

(3) USE OF PLACEMENT COMPANIES.—A State that establishes a workfare program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for placement of participants in the program in positions of full-time employment, preferably in the private sector, sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

(4) COMMUNITY SERVICE JOBS—A State that establishes a workfare program under this part may not provide more than 3 community service jobs to a participant under the program.

(h) JOB PLACEMENT VOUCHER PROGRAM—SEC. 490A. JOBS PLUS VOUCHER PROGRAM—

(A) A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

(i) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

(ii) An employer who receives a voucher issued under this program from an individual participating in the program shall pay to the employer an amount equal to 50 percent of the total amount of assistance provided under the State plan approved under part A to the family of which the individual is a member for the most recent 12 months for which the family was eligible for such assistance.

(iii) FUNDING—Section 490A shall be used to carry out this program.

(i) AUTHORITY TO INCREASE LIMITATION.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

(j) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subsection (i) if the Secretary determines that providing such assistance would be in the best interest of the recipient.

(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS—A State may not provide more than 3 community service jobs to a participant under the program.

(2) WORK FIRST AND OTHER PROGRAMS.—(A) Each State that is operating a program in accordance with section 490A or (B) and (C) shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the product of the number of participants (specified in such paragraph) of the expenditures to carry out such programs and the product of the percentages (as defined in such paragraph) of such State's total amount of assistance for such fiscal year.

(B) THE LIMITATION.—The limitation under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the total amount of assistance for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D) in the State in the fiscal year preceding the fiscal year for which the State is determined appropriate) bears to the maximum number of such adults permitted in the State for such fiscal year.

(C) (i) The amount specified in this subparagraph is—

(I) $1,600,000,000 for fiscal year 1997;

(II) $1,600,000,000 for fiscal year 1998;

(III) $1,500,000,000 for fiscal year 1999;

(IV) $2,500,000,000 for fiscal year 2000; and

(V) $3,200,000,000 for fiscal year 2001 and each succeeding fiscal year.

(ii) The amount determined under clause (i) for fiscal year 2000 and each succeeding fiscal year.

(3) The amount determined under this clause for any fiscal year is the product of the following:

(I) The amount specified in this subparagraph for the immediately preceding fiscal year.

(II) 1.00 plus the percentage (if any) by which

(a) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the most recent 12-month period for which such information is available, exceeds the average for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

(b) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

(III) The amount that bears the same ratio to the amount specified in this subparagraph for the immediately preceding fiscal year as the number of individuals who are the recipients of the same services and are the beneficiaries of the same assistance in the fiscal year as the number of individuals who are the recipients of the same services and are the beneficiaries of the same assistance in the fiscal year.

(4) FUNDING.—Section 490A shall be used to carry out the demonstration programs established under part C of this Act, (or in the case of a second-rate school, a school for deaf or the intermediate preceding fiscal year.

(D) For purposes of this paragraph, the term ‘dependent child’ means an individual other than a dependent child who is not the child of a parent of the individual concerned. For purposes of this paragraph, the term ‘dependent child’ means an individual other than a dependent child who is not the child of a parent of the individual concerned. For purposes of this paragraph, the term ‘dependent child’ means an individual other than a dependent child who is not the child of a parent of the individual concerned.

(E) For purposes of this paragraph, the term ‘dependent child’ means a needy child who is not the child of a parent of the individual concerned. For purposes of this paragraph, the term ‘dependent child’ means a needy child who is not the child of a parent of the individual concerned. For purposes of this paragraph, the term ‘dependent child’ means a needy child who is not the child of a parent of the individual concerned.
place of residence maintained by such individual (or together with any one or more of his or her relatives so specified) as his (or their) own home."

(3) (A) In lieu of any payment under paragraph (2) of this section for a fiscal year after 1997, the amount of Federal payments pursuant to paragraph (2) of this subsection and section 403(k) for a fiscal year (other than for costs described in paragraph (4) of this section) in order to break the cycle of welfare dependence, shall be increased in a fiscal year by the sum of the Federal payments under such provisions of law for such fiscal year, but for fiscal years after 1997, such amount at the end of such fiscal year shall not exceed $400,000,000.

(b) CONFORMING AMENDMENTS

(1) Section 1115(b)(2)(A) (42 U.S.C. 601(b)(2)(A)) is amended by striking "and" and inserting "and the amount specified in subsection (a) of this title as in effect, 90 percent; and"

(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for fiscal year (other than for costs described in subclause (i))—

(B) With respect to the amount for which payment is made to a State under subparagraph (A), the State's expenditures for the costs of operating such programs may be in excess of such limitations.

(C) Not more than 10 percent of the amount payable to a State under this paragraph for quarter payments for expenditures made during the quarter for expenses described in subparagraph (A) for program participants who are not eligible for assistance under the State plan approved under this part.

(d) SECRETARY'S SPECIAL ADJUSTMENT FUND.

Section 413(a), as added by section 9101(a) of this Act, is amended by adding at the end thereof

SEC. 9302. ADJUSTMENTS.

(A) The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will submit allowable medical assistance for Federal payment in the full amount available to it under paragraph (2) in the current fiscal year and obligated 95 percent of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of payments pursuant to such adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds to be in the case where the amount of Federal medical assistance for Federal payment in the full amount of the amount by which a State's limitation should be raised, the amount specified in such paragraph shall be considered to be so increased for the following fiscal year.

(D) The amount made available under subparagraph (A) for special adjustments shall remain available to the Secretary until expended. Such amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the cumulative amount of special adjustments approved by the Secretary in any fiscal year.

SEC. 9303. APPLICABILITY TO STATES.

(A) STATE OPTION TO ACCELERATE APPLICABILITY.

If a State formally notifies the Secretary of Health and Human Services in accordance with the procedures described in such paragraph or section 454A(e), except as provided in subparagraph (C), and

(C) The Secretary of Health and Human Services shall establish such procedures as may be necessary to implement the amendments made by this subsection in order to break the cycle of welfare dependency.

SEC. 9302. REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendments made by this subsection.

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and all that follows through the period and
fecting its eligibility for assistance or de-
which were made by the absent parent in
which represent payments for a prior month
(B) in paragraph (a), by striking "or (B)"
and then (B) from any remainder.
mounts of support obligations assigned, pur-
any other State or States shall be paid to
any other State or States and used to pay
any such arrearages of such support obliga-
tions assigned to any other State or States.
and used to pay such arrearages, in
the order in which such arrearages accrued
with (appropriate reimbursement of the Fed-
eral Government to the extent of its partici-
pation in the financing).

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accordance with section 454(a)(12)(C), for an
alternative payment procedure; and
(2) in paragraph (b)—
(A) by striking subparagraph (A) and in-
serting "(A) services under the State plan shall
be made available to nonresident
the same terms as to residents; and
(B) by striking subsection (B)—
(i) by inserting "on individuals not receiv-
ing assistance under part A" after "such
services shall be"
and
(ii) by inserting "but no fees or costs shall
be imposed on any absent or custodial parent
or other individual for inclusion in the
center or any such arrangement maintained pursuant to section 454(a)(6)"; and
(C) in each of subparagraphs (B), (C), and
(D) by inserting 

(b) MEANING OF TERMS—For purposes of
this section—
(1) the term ‘Statewide paternity estab-
ishment percentage’ means, with respect to a
fiscal year, the rate (expressed as a per-
centage of the population) equal to
(A) the total number of out-of-wedlock
children in the State under one year of age
for whom paternity is established or ac-
knowledge during the fiscal year, to
(B) the total number of children born out
of wedlock in the State during such fiscal
year;

(2) the term ‘overall performance in
child support enforcement’ means a measure
of the effectiveness of the State agency in
its collection of support obligations, including
arrears, for whom paternity
is acknowledged during the fiscal year, to
to such State for the succeeding fiscal
year.

(3) RECYCLING OF INCENTIVE ADJUST-
MENT—A State shall expend in the State
program under this part all funds paid to
the State by the Federal Government as a result of an incentive adjustment under this
section.

(4) FISCAL YEAR SUBJECT TO INCENTIVE
ADJUSTMENT. —The total percentage point in-
crease determined pursuant to this section
with respect to a State program in a fiscal
year shall be applied as a percentage of the
applicable percent under section 454(a)(2)
for payments to such State for the succeeding fiscal
year.
(C) the ratio of child support collected to child support due: and (D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.

(b) ADJUSTMENT OF PAYMENTS UNDER PART D OF TITLE IV.—Section 453(a)(2) (42 U.S.C. 653(a)(2)) is amended by adding after and below subparagraph (C), 'flush with the left margin of the subparagraph, the following:

"(ii) by striking the period at the end of subparagraph (C)(ii) and inserting a comma and a semicolon.

(c) CONFORMING AMENDMENTS.—Section 453(b) (42 U.S.C. 653(b)) is amended by striking "any increases in Federal payment adjustments pursuant to section 458." as redesignated by the Secretary pursuant to section 458.

(d) CONFORMING AMENDMENTS.—Section 453(b) (42 U.S.C. 653(b)) is amended by striking "the period at the end of subparagraph (C)(ii) and inserting a comma and a semicolon.

(e) CONFORMING AMENDMENTS.—Section 453(b) (42 U.S.C. 653(b)) is amended by striking "the period at the end of subparagraph (C)(ii) and inserting a comma and a semicolon.

(2) To the extent necessary for the purposes of this section, the Social Security Act shall be read as if it included a reference to the provisions of this section as amended.
SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) Establishment.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting `and' after `after.'

(b) Program Management.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part.

(c) Effective Date.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this Act.

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) Revised Requirements.—(1) Section 454A (42 U.S.C. 654A(16)) is amended—

(A) by striking `at the option of the State';

(B) by inserting `and operation by the State agency after the establishment';

(C) by inserting `meeting the requirements of section 454A after `information retrieval system';

(D) by striking `in the State and localities thereof, so as' and inserting `so as';

(E) by striking `(i)'; and

(F) by striking `(including' and all that follows and inserting `so as'.

(2) Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 454 the following new section:

`SEC. 454A. (a) In general.—In order to meet the requirements of this section, for purposes of the requirement of section 454A(16), there shall be established and maintained a single statewide automated data processing and information retrieval system which has the capacity to store and retrieve data in an automated system, sufficiently to meet the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

(b) Program Management.—The automated system required under this section shall perform such functions as the Secretary assigns relating to management of the program under this part. including—

(1) controlling and accounting for use of Federal funds and local funds to carry out such program; and

(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

(c) Calculation of Performance Indicators.—In order to enable the Secretary to determine the effective and penalty adjustments required by section 454(2) and 458, the State agency shall—

(1) use the automated system;

(2) use the system to require data on State performance with respect to participation in child support enforcement in the State; and

(3) calculate the IV-D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year.

(2) have in place systems controls to ensure the security of the data, including but not limited to, access to the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

(d) Information and Security.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness, and reliability of data in the automated system required under this section. which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):—

(1) Policies restricting access.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons or entities.

(2) Systems controls.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

(3) Monitoring of access.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

(e) Training and Information.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

(f) Penalties.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to or disclosure or use of confidential data.

(g) Regulations.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

`(i) The Secretary shall prescribe final regulations for implementation of the requirements of sections 452(a)(5) and 454 as the Secretary specifies in regulations.

(2) Adoption of regulations.—The State agency shall have in effect procedures for adoption of regulations; and

(h) Implementation Timetable.—Section 454A (42 U.S.C. 654A(24)), as amended by sections 940(a)(2) and 941(b)(1) of this Act, is amended to read as follows:

`(a) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1990, including the requirements specified in section 2352; (b) by October 1, 1996, meeting all requirements of section 454A of this Act (including the requirements specified in paragraph (2)) without regard to clause (D) thereof; and

(i) by October 1, 1997, meeting all requirements of title II of the Omnibus Budget Reconciliation Act of 1997, including the requirements specified in section 2352; (j) by October 1, 1998, meeting all requirements of title III of the Omnibus Budget Reconciliation Act of 1997, including the requirements specified in section 2353; (k) by October 1, 1999, meeting all requirements of title IV of the Omnibus Budget Reconciliation Act of 1997, including the requirements specified in section 2354; (l) by October 1, 2000, meeting all requirements of title V of the Omnibus Budget Reconciliation Act of 1997, including the requirements specified in section 2355; (m) by October 1, 2001, meeting all requirements of title VI of the Omnibus Budget Reconciliation Act of 1997, including the requirements specified in section 2356.

(i) This Act and the amendments made by this Act are subject to the application of the complete funds provisions of this Act.

(j) Effective Date.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this Act.

SEC. 9416. DIRECTOR OF CSE PROGRAM STAFFING STUDY.

(a) Reporting to Secretary.—Section 452(a) (42 U.S.C. 652(a)) is amended in the main preceding paragraph (1) by striking `directly'.

(b) Staffing Studies.—(1) On behalf of the Secretary, the Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing. maintenance of confidentiality, and other requirements relating to the protection of sensitive or confidential program data. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(c) Agency of Studies.—The Secretary shall conduct the studies required under subsection (a) of this section, and may conduct additional studies subsequently at appropriate intervals.

(j) Report to Congress.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

(a) Reporting to Secretary.—Section 452(a) (42 U.S.C. 652(a)) is amended by adding at the end the following:

`(c) by striking `which the Secretary' and all that follows and inserting `such appropriations are required to be used or discretionary funds for the fiscal year in which the funds were authorized. Please note that the text is not consistent with the formatting and structure of the original document. It appears to be a partial transcription and may require further refinement or correction to accurately represent the intended content.
(b) research, demonstration, and special projects of national or international significance relating to the operation of State programs under this part; and

(c) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support collections as a result of services furnished in such fiscal year, as determined by the Secretary, to the extent such costs are not recovered through user fees.

(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity, and to establish and collect child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

(i) families (or dependent children) receiving assistance under State plans approved under part A, in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).

(b) The data referred to in subsection (a) are—

(i) the number of cases in the caseload of the State agency administering the plan in part (b) of such service for which the child support order is entered; and

(ii) the number of such cases in which the service has been provided; and

(2) the number of such cases in which the service has been provided; and

(iii) the number of such cases in which the service has been provided; and

(iv) inserting "and all that follows and inserting "in

"(ii) The total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving assistance under this part;

(iii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

(iv) the number of cases involving families

(v) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

(vi) with respect to whom a child support payment was received in the same month;

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(a) by striking clause (i)—

(i) by striking "with the data required under this section shall perform the functions. in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the Secretary (including, on and after October 1, 1988, each order specified in section 454A(a)), for the activities specified in subsection (b), separately stated, in the central case registry for a fiscal year is the amount equal to

"(I) the total amount of child support payments collected as a result of services furnished in such fiscal year to individuals receiving assistance under this part;

"(ii) the total amount of support due and

"(D) the birth date of the child for whom the child support order was entered.

(3) by adding after paragraph (26) the following:

(3) The child support order is entered,

(4) the birth date of the child for whom the child support order was entered.

(3) UPDATING AND MONITORING.—The State agency shall...
"(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant, including procedures—

(b) REQUIRED PROCEDURES.—The centralized collection unit shall use automated procedures, electronic processes, and computerization to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

(1) for receipt of payments from parents, employers, and other States; and for disbursements to custodial parents and other obligors, the Secretary, and the State agencies of other States;

(2) for accurate identification of payments;

(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

(4) to furnish to either parent, upon request, timely information on the current status of support payments.

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 9413(a)(2) of this Act and as amended by section 9421 of this Act, is amended by adding at the end the following new subsection:

(g) CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, for centralized collection and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

(1) generation of orders and notices to employers (and other debtors) for the withholding of support payments, or local agencies;

(A) within two working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

(B) using uniform formats directed by the Secretary;

(2) ongoing monitoring to promptly identify failures to make timely payments; and

(3) automatic use of enforcement mechanisms, if applicable, for enforcement of support payments pursuant to section 454(c) where payments are not timely made.

(SECTION 9422.)—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME SECURITY AND CREDITS.

(a) MANDATORY INCOME WITHHOLDING.—(1) Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1) INCOME WITHHOLDING.—(A) UNDER ORDERS ENFORCED UNDER THE STATE PLAN.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

(B) OTHER ORDERS PREDATING CHANGE IN REGULATIONS.—Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for "suit technology to issue restraining orders.""

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(b) EXPANDED FEDERAL PARENT LOCATOR SERVICE.—

(1) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(A) in subsection (a), by striking all that follows "subsection (c)" and inserting the following:

"(c) for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing an obligation;"

and

(B) in subsection (e), by striking all that follows "subsection (c)" and inserting the following:

"(c) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in health care coverage), and

(3) information on the type, status, location, and amount of any assets of, or debts owed by, or to, any such individual.; and

(2) in subsection (b), (A) in the matter preceding paragraph (1), by striking "social security" and all that follows "through " and inserting "information specified in subsection (a)" and

(B) in paragraph (2), by inserting before the period "and consumer reporting agencies" (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681(f)));

(3) in subsection (e)(1), by inserting before the period "to" and by inserting "to consumer reporting agencies";

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453 (42 U.S.C. 653) is amended—

(1) in paragraph (2), by inserting "or other income) from, and benefits of, employment, to a governmental agency, and inserting "employment" in the case of any other governmental agency;"

(2) in paragraph (3), by inserting "to" and "or other governmental agency" after "State or local agency;"

(3) in paragraph (4), by inserting "to" and "or other governmental agency" after "State or local agency;"

(4) in paragraph (5), by inserting "to" and "or other governmental agency" after "State or local agency;"

(5) in paragraph (6), by inserting "to" and "or other governmental agency" after "State or local agency;"

(6) in paragraph (7), by inserting "to" and "or other governmental agency" after "State or local agency;,

(c) DISCLOSURE OF TAX RETURN INFORMATION.—(1) Section 453(b)(2)(A)(i) of the Internal Revenue Code of 1986 is amended by inserting "Federal," before "State or local".


(d) TECHNICAL AMENDMENTS.—

(1) Section 451(b)(2)(A) (42 U.S.C. 651(b)(2)(A)) is amended by striking "652(a)(9), 653(b), 653(d), 653(e), 653(f), 653(g), 653(h), 653(i), 653(j), 653(k), 653(l), 653(m), 653(n), 653(o), and 653(p)"); and

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT" each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT.

(F) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2) of this section, is amended by adding at the end the following:

"(h) DATA BANK OF CHILD SUPPORT ORDERS—

(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering their State plans under this part and parts A, F, and C, and for the other purposes
(B) disclose data in such records to such agencies and authorized purposes to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

(B) FEES.—

(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (a).

(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse the costs incurred by SESAS for furnishing data as required by subparagraph (3), at rates that the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, compiling, or maintaining such data).

(I) FOR INFORMATION FUNNELED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data furnished by the Secretary pursuant to this section shall reimburse the Secretary, in furnishing such data or information, the costs incurred by the Secretary to obtain such data or information.

(2) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and any information furnished or used in connection therewith, shall be used or disclosed only in accordance with paragraph (1). Such data shall not be used or disclosed except as specifically provided in this section.

(A) RETENTION OF DATA.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

(B) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

(C) LIMIT ON LIABILITY.—The Secretary shall be liable only to an individual for inaccurate information provided to a component of the Federal Parent Locator Service and disclosed by the Secretary in accordance with this section.

(III) CONFORMING AMENDMENTS.—

(I) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 1354(b)(1) (42 U.S.C. 654(b)(1)) is amended to read as follows:

(B) by striking "social security administration" and inserting "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(b)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services"; and

(II) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 1354(b)(1) (42 U.S.C. 654(b)(1)) is amended to read as follows:

(B) by striking such "information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is "information maintained under such subparagraph";

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

(D) by redesignating subparagraph (B) as subparagraph (C) and

(E) by inserting the following new subparagraph:...
Section 1735B of title 28, United States Code, is amended by adding after subsection (a)(2) the following:

"(1) if only one court has issued a child support order; or

(2) if two or more courts have issued child support orders for the same obligor and child, and only one of the orders would have continuing exclusive jurisdiction under this section, an order issued by a court in the current home State of the child, the child's home State, or a court of another State that has been issued in this or another State, is recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized."
“(C) SUSPENSIONS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

“(D) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to personal and financial records including automated access. In the case of records maintained in automated data bases:

“(I) vital statistics (including records of marriage, birth, and divorce);

“(II) personal tax and revenue records (including information on residence, address, employer, income and assets);

“(III) records concerning real and titled personal property;

“(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

“(V) employment security records;

“(VI) records of agencies administering public assistance programs;

“(VII) records of the motor vehicle department;

“(VIII) corrections records; and

“(IX) certain records held by private entities, including—

“(I) customer records of public utilities and communication carriers;

“(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

“(E) INCOME WITHHOLDING.—To order income withholding in accordance with section 305(c)(1) and (2) of section 466.

“(F) AUTOMATION OF STATE AGENCY FUNCTIONS.—In cases where support is subject to an assignment under section 403(b)(1) and (2) of this Act, the State agency, upon providing notice to obligor and obligee, to direct the obligor or other payor to change withholding in accordance with subsection (d) of section 466(d) (or has good cause not to cooperate with such efforts).

“(G) SECURE ASSETS TO SATISFY ARREARAGE.—To the following:

“(I) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;

“(II) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;

“(III) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;

“(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

“(V) employment security records;

“(VI) records of agencies administering public assistance programs;

“(VII) records of the motor vehicle department;

“(VIII) corrections records; and

“(IX) certain records held by private entities, including—

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“(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

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“(G) SECURE ASSETS TO SATISFY ARREARAGE.—To the following:

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“(III) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;

“(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

“(V) employment security records;

“(VI) records of agencies administering public assistance programs;

“(VII) records of the motor vehicle department;

“(VIII) corrections records; and

“(IX) certain records held by private entities, including—

“(I) customer records of public utilities and communication carriers;

“(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

“(E) INCOME WITHHOLDING.—To order income withholding in accordance with section 305(c)(1) and (2) of section 466.

“(F) AUTOMATION OF STATE AGENCY FUNCTIONS.—In cases where support is subject to an assignment under section 403(b)(1) and (2) of this Act, the State agency, upon providing notice to obligor and obligee, to direct the obligor or other payor to change withholding in accordance with subsection (d) of section 466(d) (or has good cause not to cooperate with such efforts).

“(G) SECURE ASSETS TO SATISFY ARREARAGE.—To the following:

“(I) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;

“(II) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;

“(III) the parties to any paternity or child support proceedings are required (subject to any right to privacy or other right to privacy) to alter or modify any support order in a manner that is consistent with the best interests of the child;
cooperate] until such individual has been afforded an opportunity for a hearing."

(b) MEDICAID AMENDMENTS.—Section 1912(a) (42 U.S.C. 1396k(a)) is amended—

(1) by striking "except as provided in paragraph (2)" after "to cooperate with the State";

(2) by striking subparagraph (A) and inserting "(A) by striking ". unless" and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraphs:

"(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV:

"(3) provide that an individual who will not be required to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

"(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(a)(2) (42 U.S.C. 654(a)(2)) is amended—

SEC. 9444. FEDERAL MATCHING PAYMENTS. (a) INCREASED BASE MATCHING PAYMENTS. —

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT. (a) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN. —

(b) MAINTENANCE OF RECORD.—Notwithstanding any other provision of law, the State or political subdivision administering the program for the State government for the fiscal year 1998 and each succeeding fiscal year, reduced by 66 percent for the fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent for the fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2)."

SEC. 9444. FEDERAL MATCHING PAYMENTS. (a) INCREASED BASE MATCHING PAYMENTS.—

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c) from";

and

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

"(c) MAINTENANCE OF EFFORT.—Notwithstanding any other provision of law, the State or political subdivision administering the program for the State government for the fiscal year 1998 and each succeeding fiscal year, reduced by 66 percent for the fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent for the fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2)."

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and

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SEC. 9444. FEDERAL MATCHING PAYMENTS. (a) INCREASED BASE MATCHING PAYMENTS. —

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(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(c) MAINTENANCE OF EFFORT.—Notwithstanding any other provision of law, the State or political subdivision administering the program for the State government for the fiscal year 1998 and each succeeding fiscal year, reduced by 66 percent for the fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent for the fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2)."
and genetic testing are admissible as evi-
dence, without requiring third-party test-
timony, and shall constitute prima facie evidence of amounts incurred for such services. The amendment shall apply to testings at the end of the following new subpara-

SEC. 9451. NATIONAL CHILD SUPPORT GUIDE-
LINES COMMISSION.
(a) ESTABLISHMENT.—There is hereby es-

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW
ORDERS.
(a) CHANGED ORDER OF REFUND DISTRIBUT-
ION UNDER INTERNAL REVENUE CODE.—Sec-

SECTION 544(c) of the Internal Revenue Code of 1986 is amended—

(a) by striking "(a)" and inserting "(a) OFFSET AUTHORIZED—";

(b) in paragraph (i)—

(i) in the first sentence, by striking "which has been assigned to such State pursuant to paragraph (2)" and inserting "which has been assigned to such State pursuant to paragraph (2)(B)"; and

(ii) in subparagraph (B), by striking "or (2)" each place it ap-

(9) EXPANDED FEDERAL MACHING.—Section

455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon 

(2) TERMS OF OFFICE.—Each member shall

(a) by striking "(a)" and inserting "(a)

(b) in paragraph (i)—

(1) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)" and inserting "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(c) in paragraph (2), to read as follows:

(2) The State agency shall distribute amounts paid by the Secretary of the Treasury

pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or

(10) EXPANDED FEDERAL MACHING.—Section

455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon 

(2) TERMS OF OFFICE.—Each member shall

(a) by striking "(a)" and inserting "(a)

(b) in paragraph (i)—

(1) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)" and inserting "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(c) in paragraph (2), to read as follows:

(2) The State agency shall distribute amounts paid by the Secretary of the Treasury

pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or

(10) EXPANDED FEDERAL MACHING.—Section

455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon 

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(a) by striking "(a)" and inserting "(a)

(b) in paragraph (i)—

(1) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)" and inserting "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(c) in paragraph (2), to read as follows:

(2) The State agency shall distribute amounts paid by the Secretary of the Treasury

pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or

(10) EXPANDED FEDERAL MACHING.—Section

455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon 

(2) TERMS OF OFFICE.—Each member shall

(a) by striking "(a)" and inserting "(a)

(b) in paragraph (i)—

(1) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)" and inserting "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(c) in paragraph (2), to read as follows:

(2) The State agency shall distribute amounts paid by the Secretary of the Treasury

pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or
(B) by striking paragraph (2).

Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), "and inserting "(c) DEFINITION—As:" and

(B) by striking paragraphs (2) and (3).

(c) EFFECTIVE DATE—The amendments made by this section shall become effective October 1, 1997.

SEC. 963. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES—

(1) Section 459 (42 U.S.C. 659) is amended by striking subsection (b). and section 459 (42 U.S.C. 659(b)) is designated and relocated as paragraph (3):

(2) by striking paragraph (3) after "collected.

(3) by striking the period at the end of paragraph (3) and inserting a comma:

(4) by adding after paragraph (4) the following new paragraph:

"(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (A) with regard to any provision of section 461(b)(3) and inserting

"(6) Section 459 (42 U.S.C. 659) is amended by striking subsection (d) and by inserting after subsection (c)(1) (as added by paragraph (5) of this subsection) the following:

"(7) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any other legal process, or interrogatories, with respect to an individual's child support or alimony obligations, such agent shall identified by title of position, mailing address and telephone number.

"(8) Within 30 days (or such longer period as may be prescribed by applicable law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, or when applicable provisions of such section 466; and

"(9) Within 30 days (or such longer period as may be prescribed by applicable law) after receipt of an interrogatory or other legal process, or interrogatories, respond thereto.

(b) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659(c)) is amended by inserting after subsection (c) as added by paragraph (5) and amended by paragraph (6) of this subsection the following:

"(D) PRIORITY OF CLAIMS.—In the event that a governmental entity receives notice of or is served with process under this section, concerning amounts owed by an individual, to an individual among claimants under section 466(b) and regulations thereunder; and

"(E) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

(c) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON—Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process concerns or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved) to the same requirements that would apply if such entity were a private person.

(d) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (5) of subsection (b).

(e) Section 459(d) (42 U.S.C. 659(d)) is amended by striking "(d)" and inserting "(e)" and the following:

"(e) NO REQUIREMENT TO VARY PAY CYCLES—

(f) Section 459(f) (42 U.S.C. 659(f)) is amended by striking "(f)" and inserting the following:

"(g) RELIEF FROM LIABILITY—

(h) Section 459(g) (42 U.S.C. 659(g)) is redesignated and relocated as section 459(g) and is amended—

(A) by striking "(g)" and inserting the following:

"(h) REGULATIONS—

(i) by section 459(h) and inserting this section:

(j) Section 459 (42 U.S.C. 659) is amended by striking subsection (f), and section 459 (42 U.S.C. 659) is amended by inserting the following after subsection (g) (as added by paragraph (10) of this subsection):

"(h) WORKER'S COMPENSATION PAYMENT—

"(i) DESIGNATION OF AGENT—The amendments made by this section shall become effective October 1, 1997.
sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 664), and inserting "section 459 of the Social Security Act (42 U.S.C. 659)."

(C) MILITARY RETIRED AND RETAINER PAY.—(1) Section 408(d)(2) of such title is amended—
(A) by striking "and" at the end of subparagraph (B); and
(B) by striking the period at the end of subparagraph (C) and inserting "; and"
(D) (or a new duty address, in the case of a member's residential address should not bedisclosed due to national security or safety concerns.
(1) DUTY ADDRESS—The address

(2) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information

(b) SATISFYING OF DEBT—The Armed Forces shall be liable for the amount of any

(c) PAYMENT OF MILITARY RETIRED PAY IN

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.—

SEC. 9465. MOTOR VEHICLE LIENS.—

SEC. 9467. STATE LAW LIENS.—

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.—

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(b) SATISFYING OF DEBT—The Armed Forces shall be liable for the amount of any

(c) PAYMENT OF MILITARY RETIRED PAY IN

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.—

SEC. 9465. MOTOR VEHICLE LIENS.—

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SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.—

(a) AVAILABILITY OF LOCATOR INFORMATION.—

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SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.—

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(b) SATISFYING OF DEBT—The Armed Forces shall be liable for the amount of any

(c) PAYMENT OF MILITARY RETIRED PAY IN

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.—

SEC. 9465. MOTOR VEHICLE LIENS.—

SEC. 9467. STATE LAW LIENS.—

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.—

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(b) SATISFYING OF DEBT—The Armed Forces shall be liable for the amount of any

(c) PAYMENT OF MILITARY RETIRED PAY IN
subsection or warrants relating to paternity or child support, or 
SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS. 
Section 466(a) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT 
BUREAUS.—(A) Procedures (subject to safe-
guards pursuant to subparagraphs (B) and (C) of the Senate amendment) shall be fol-
lowing the State to report periodically to consumer reporting agencies (as defined in section 603(1) of the Fair Credit Reporting Act) the name of any ab-
sent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such par-
ent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to arrearages accruing on or after the date of enactment shall trans-
mit such certification to the Secretary of State for action (with respect to denial, rev-
ocation or limitation of passports) pursuant to section 212(d) of the Omnibus Budget Reconciliation Act of 1995.

"(8) LIMIT ON LIABILITY.—The Secretary shall not be liable for any action with respect to a certification by a State agency under this section.

"(9) STATE CSE AGENCY RESPONSIBILITY.— 
Section 466(a)(25) (42 U.S.C. 666(a)(25)), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended— 

(A) by striking "and" at the end of para-
graph (26),

(B) by striking the period at the end of paragraph (27) and inserting 
; and

(C) by inserting after paragraph (27) the fol-
lowing new paragraph:

"(28) provide that the State agency will 
have in effect a procedure (which may be 
combined with the procedure for tax refund 
offset under section 466) for certifying to the 
Secretary, for purposes of the procedure under section 467, that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months worth of child support, under which pro-
cedure— 

"(A) each individual concerned is afforded 
notice of such determination and the con-
sequences, including the opportunity to 
contest the determination; and

"(B) the certification by the State agency 
is furnished to the Secretary in such format, 
and accompanied by such supporting docu-
mentation, as the Secretary may require.".

"(10) STATE DEPARTMENT PROCEDURE FOR DE-
LIVERING PATENTS.— 
(1) In GENERAL.—The Secretary of State, 
upon certification by the Secretary of Health 
and Human Services, in accordance with section 
452(l) of the Social Security Act, that an 
individual owes arrearages of child support 
in excess of $5,000, shall refuse to issue a 
passport to such individual, and may revoke, 
restrict or limit a passport issued previously 
to such individual. and may revoke. 

"(2) APPLICATION OF REQUIREMENTS.— 
The amendment made by this section shall not be 
read to require any State law to revive any 
patent that the individual is unable to provide 
patent to the Ex- 
SEC. 9469. EXTENDED STATUTE OF LIMITATION 
FOR COLLECTION OF ARREARAGES.

(a) AMENDMENT.—Section 466(a)(3) (42 
U.S.C. 666(a)(3)) is amended—

(1) by striking "and" inserting the fol-
lowing:

"(E) by inserting after paragraph 
(27) the following:

"(28) by the striking the period at the end of paragraph (27) and inserting 
; and

(2) by redesignating subparagraphs (A), (B), 
and (C) as clauses (i), (ii), and (iii), respec-
tively, and by indenting each of such clauses 
2 additional ems to the right; and

(3) by adding after and below subparagraph 
(A) the redesignated, the following new sub-
paragraph:

"(29) provide that the State agency will 
hold the property until an inquiry is 
made to and a response is 

(b) APPLICATION OF REQUIREMENTS.— 
The amendment made by this section shall not be 
read to require any State law to revive any 
patent to the Ex- 
SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 
466(a) (42 U.S.C. 666(a)), as amended by sec-
tions 9401(a) and (e), 9414(b),, 9422(a), and 9467 of this Act, is amended by inserting after paragraph (17) the following:

"(18) CHARGES FOR ARREARAGES.—Pro-
duces for the calculation and col-
lection of interest or penalties for arrearages 
of child support, and for distribution of such 
interest or penalties collected for the benefit 
of the child (except where the right to sup-
port has been assigned to the State)."

(b) REGULATIONS.—The Secretary of Health 
and Human Services shall establish by regu-
lation a rule to resolve choice of law con-
licts arising in the implementation of the 
amendments of this Act.

(c) CONFORMING AMENDMENT.—Section 
452(d) (42 U.S.C. 652(d)) is repealed.

"(7) The amendments made by this section shall be effective with respect 
to arrearages accruing on or after October 1, 1998.

SEC. 9471. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.— 
"(1) SECRETARIAL RESPONSIBILITY.— 
Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and (e), 9414(b),, 9422(a), and 9467, is amended by adding at the end the following new sub-
paragraph:

"(3) CERTIFICATIONS FOR PURPOSES OF PASS-
PORT RESTRICTIONS.— 
(1) In GENERAL.—Where the Secretary re-

cieves a certification by a State agency in 

"(2) The person required to make a pay-
ment under a policy of insurance or a settle-
mence that a claim made with respect to the policy shall— 

"(B) the payor of any amount pursuant to 
an award, judgment, or settlement in any ac-

"(C) by inserting after paragraph (19) the fol-
lowing:

"(20) Procedures under which each parent 
of an individual who has not attained 18 
years of age is liable for the financial sup-
port of any child of the individual to the 
amount of the lesser of the amount of such 
support. The preceding sentence shall not 
apply to the State if the State plan ex-

"(21) by striking "and" at the end of para-
graph (26),

"(22) by striking the period at the end of paragraph (27) and inserting 
; and

"(23) by inserting after paragraph (28) the fol-
lowing:

"(24) provide that the State must treat 
international child support cases in the same 
amanner as the State treats interstate child 
support cases.

"(25) SEIZURE OF LOTTERY WINNINGS, SET-
TLEMENTS, PAYMENTS, AWARDS, AND 
PROPERTY OF FORFEITED PROPERTY, TO PAY 
CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and (e), 9414(b),, 9422(a), and 9467, is amended by inserting after paragraph (18) the following:

"(26) provide that the State shall—

It is the sense of the Congress that the States should develop programs, such as the
program of the State of Wisconsin known as the "Children's First Program", that is designed to work with noncustodial parents who are unable to meet their child support obligations. 

CHAPTER 9—MEDICAL SUPPORT 

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL SUPPORT ORDER. 


(l) by striking "issued by a court of competent jurisdiction" after "at the request of the individual for whom such support is requested", and

(2) by inserting before the period at the end of clause (i) the following clause:

"(ii) the individual and the child.

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

SEC. 9482. DISQUALIFICATION FOR CHILD SUPPORT ARREARS. 

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end the following:

"(k) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES. 

(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.),

(A) in establishing the paternity of the child (if the child is born out of wedlock); and

(B) in providing support for the child.

(2) REFUSAL TO COOPERATE.— 

(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines that define what constitutes a refusal to cooperate under paragraph (1).

(B) PROCEDURES.—The State agency shall develop procedures for using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.

SEC. 9483. DISQUALIFICATION FOR CHILD SUPPORT ARREARS. 

The provisions of this title requiring enactment or amendment of State laws under section 416 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996, and

(2) all other provisions of this title shall become effective upon enactment.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(I) the date specified in this title, or

(II) a date not less than 6 months after the effective date of laws enacted by the legislature of such State implementing such provisions.

(c) EFFECTIVE DATE.—The effective date of laws enacted by the legislature of a State that has a 2-year legislative session, each year of which shall be deemed to be a separate regular session of the State legislature. 

Sec. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES. 

(a) IN GENERAL.—The amendments made by this section shall not apply to the individual and the child (if the child is born out of wedlock):

(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.),

(A) in establishing the paternity of the child (if the child is born out of wedlock); and

(B) in providing support for the child.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and become effective with respect to a State on the later of—

(I) the date specified in this title, or

(II) a date not less than 6 months after the effective date of laws enacted by the legislature of such State implementing such provisions.

Sec. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS. 

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

Subtitle E—Teen Pregnancy and Family Stability 

SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MINORS. 

(a) IN GENERAL.—Section 402(c), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(b) SUPERVISED LIVING ARRANGEMENTS FOR MINORS.—The State plan shall provide that—

(A) except as provided in subparagraph (B), in the case of any individual who is under age 18 and has a nonresident parent who has a needy child in his or her care (or is pregnant and is eligible for temporary emergency assistance under the State plan),

(i) such individual may receive such assistance for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home; and

(ii) such assistance (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual.

(B) in the case of an individual described in clause (ii)—

(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's supervised living arrangement is appropriate and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued..."
responsible Federal officials find will assist and (II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, the State agency shall provide for comprehensive case management, foster care, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency):

(1) for purposes of clause (i), an individual is described in this clause if—

(i) the individual has no parent or legal guardian on whose behalf she is living and whose whereabouts are known;

(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

(III) the State agency determines that the physical or emotional health of such individual or any needy child of the individual would be jeopardized if such individual and such needy child lived in the same residence with such individual’s own parent or legal guardian;

(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interests of the needy child to be removed from the home of such individual.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 910(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

(I) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection, dissemination, and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the National Clearinghouse on Adolescent: Pregnancy Prevention Programs.

(II) FUNCTIONS.—The national center established under paragraph (I) shall—

(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention programs and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

(C) develop a network of communities of practice for the purpose of sharing and disseminating information; and

(D) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities concerning pregnancy.

(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Center on Adolescent Pregnancy Prevention Programs under subsection (a) so that in the aggregate the expenditures for such grants do not exceed $2,000,000 for fiscal year 1996, $4,000,000 for fiscal year 1997, $8,000,000 for fiscal year 1998, and $10,000,000 for fiscal year 1999 and each subsequent fiscal year.

(c) DEFINITIONS.—As used in this section:

(1) ADOLESCENTS.—The term ‘adolescents’ means youth who are ages 10 through 19.

(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a partnership or corporation that includes—

(A) a local education agency, acting on behalf of one or more schools;

(B) one or more community-based organizations, institutions of higher education, or public or private agencies or organizations.

(3) ELIGIBLE AREA.—The term ‘eligible area’ means a school attendance area in which—

(A) at least 75 percent of the children are from low-income families;

(B) the number of children receiving assistance under part A of title I of the Elementary and Secondary Education Act of 1965 is substantial as determined by the responsible Federal officials; or

(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

(4) AGENCY.—The term ‘agency’ means—

(A) SCHOOL.—The term ‘school’ means a public elementary, middle, or secondary school;

(B) RESPONSIBLE FEDERAL OFFICIALS.—The term ‘responsible Federal officials’ means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.

(5) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 910(b) of this Act, is amended by adding at the end the following:

(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

(A) SCHOOL.—The term ‘school’ means a public elementary, middle, or secondary school;

(B) RESPONSIBLE FEDERAL OFFICIALS.—The term ‘responsible Federal officials’ means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9505. DENIAL OF FEDERAL HOUSING ASSISTANCE TO MINORS WHO ARE PREGNANT.

(a) PROHIBITION OF ASSISTANCE.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(I) the birth of the child—

(aa) was a result of the act of an individual who has been determined by the relevant State to be the biological father of the child;

(bb) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(cc) the biological parent of the child has legal custody of the child and marries an individual who is married to or in any way related to or in part in any way to the child; or

(dd) the biological parent of the child has legal custody of the child and marries an individual who is related to the biological parent of the child or to any other parent of the child;

(b) State OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.

(I) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

(ii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participates in a program of monetary incentives and penalties which—

(1) at the option of the State, require participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency for parenting education activities (or any combination of such activities and secondary education);

(V) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual’s responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and services will be provided to the client and the way in which the program and services will be provided so that the client will receive less than minimally acceptable performance of required educational activities.

(VI) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid to such parent regardless of whether the State agency requires the client to participate in such educational activities or requires the client to participate in a different program during the same fiscal year.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term ‘covered program’ means—

(II) FACTORS THAT MUST BE CONSIDERED IN DEVELOPING PROGRAM.—The term ‘factors that must be considered in developing program’ means—

(A) the number of children receiving assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

(B) the number of children receiving assistance under part A of title IV-D of the Welfare and Institutions Act of 1967.

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect in the same manner as the amendment made by section 910(a) takes effect.

SEC. 9506. DENIAL OF FEDERAL HOUSING ASSISTANCE TO MINORS WHO ARE PREGNANT.

(a) PROHIBITION OF ASSISTANCE.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(I) the birth of the child—

(aa) was a result of the act of an individual who has been determined by the relevant State to be the biological father of the child;

(bb) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(cc) the biological parent of the child has legal custody of the child and marries an individual who is married to or in any way related to or in part in any way to the child; or

(dd) the biological parent of the child has legal custody of the child and marries an individual who is related to the biological parent of the child or to any other parent of the child;

(b) State OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.

(I) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

(ii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participates in a program of monetary incentives and penalties which—

(1) at the option of the State, require participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency for parenting education activities (or any combination of such activities and secondary education);

(V) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual’s responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and services will be provided to the client and the way in which the program and services will be provided so that the client will receive less than minimally acceptable performance of required educational activities.

(VI) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid to such parent regardless of whether the State agency requires the client to participate in such educational activities or requires the client to participate in a different program during the same fiscal year.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term ‘covered program’ means—

(II) FACTORS THAT MUST BE CONSIDERED IN DEVELOPING PROGRAM.—The term ‘factors that must be considered in developing program’ means—

(A) the number of children receiving assistance under part A of title I of the Elementary and Secondary Education Act of 1965; or

(B) the number of children receiving assistance under part A of title IV-D of the Welfare and Institutions Act of 1967.
was receiving such assistance on the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(A) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(i) in subparagraph (A), by striking "an individual" and inserting "as a review or redetermination otherwise required under any other provision of this title by reason of disability of such individual whose eligibility for benefits under this title of Section 1614(a)(3)(H), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

(III) by adding the following new clause:

(b) ELIGIBILITY DETERMINATION.—The Commissioner of Social Security shall establish procedures for the determination of eligibility for benefits under this title by reason of disability for any individual who has attained the age of 18 years, the Commissioner shall redetermine such eligibility on or after the individual's 18th birthday; and

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance or to occupancy limitations under a covered program that are based on income.

(2) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any other territory or possession of the United States.

(d) ELIGIBILITY DETERMINATION.—The Commissioner of Social Security shall establish procedures for the determination of eligibility for benefits under this title by reason of disability for any individual who has attained the age of 18 years, the Commissioner shall redetermine such eligibility on or after the individual's 18th birthday; and

(e) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance or to occupancy limitations under a covered program that are based on income.

(3) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any other territory or possession of the United States.

(f) ELIGIBILITY DETERMINATION.—The Commissioner of Social Security shall establish procedures for the determination of eligibility for benefits under this title by reason of disability for any individual who has attained the age of 18 years, the Commissioner shall redetermine such eligibility on or after the individual's 18th birthday; and

(g) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance or to occupancy limitations under a covered program that are based on income.

(5) in subparagraph (F), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act, is amended—

(i) by inserting "(i)" after "(H)"; and

(ii) by adding the following new clause:

(III) by adding the following new clause:

(b) ELIGIBILITY DETERMINATION.—The Commissioner of Social Security shall establish procedures for the determination of eligibility for benefits under this title by reason of disability for any individual who has attained the age of 18 years, the Commissioner shall redetermine such eligibility on or after the individual's 18th birthday; and

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance or to occupancy limitations under a covered program that are based on income.

(2) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and any other territory or possession of the United States.
determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required by this Act, except that the consideration of this subparagraph during that 12-month period.

(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, its application for title IV of this Act, if the Commissioner's determination that the individual is disabled.

SEC. 9604. DENIAL OFSSI BENEFITS FOR REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1611(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding after subparagraph (B) the following:

"(ii) all amounts deposited in or interest earned on, a savings account opened by an individual who is a member of the military service, and approved by the Department of the Treasury, except that such account shall be opened and maintained in the name of the individual or in the name of the individual and his spouse or eligible spouse; and

(b) CONFORMING AMENDMENTS.—

(1) SEC. 1611(e) (42 U.S.C. 1382c(e)) is amended by striking paragraph (1) and inserting: "(1) the following:

"(i) Notwithstanding subparagraph (A) or paragraph (2) of this Act, are funded under part A of title IV, or title XIX of this Act, the consolidated program of Federal, State, and local efforts to support persons with disabilities and ensure their rights under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(B) violating a condition of probation or parole imposed under Federal or State law.

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) of this Act, is amended by inserting after paragraph (3) the following:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title. If the officer furnishes the agency with the name and address of the recipient and notifies the agency that—

"(A) the recipient—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 9605. DENIAL OFSSI BENEFITS FOR 10 YEARS TO INDIVIDUALS WHO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS.

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

"(5) An individual shall not be considered an applicant for or eligibility for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States in which such person is a resident.

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) of this Act, is amended by inserting after paragraph (3) the following:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title. If the officer furnishes the agency with the name and address of the recipient and notifies the agency that—

"(A) the recipient—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 9606. DENIAL OFSSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382c(e)) is amended by adding after paragraph (2) the following:

"(3) A person shall not be an eligible individual for purposes of this title with respect to any month if, throughout the month, the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit such a crime, which is a felony under the laws of which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

"(B) violating a condition of probation or parole imposed under Federal or State law.

(b) CONFORMING AMENDMENTS.—Section 1631(e) of this Act, is amended by adding after paragraph (4) the following:

"(5) An individual shall not be considered an applicant for or eligibility for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States in which such person is a resident.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.
(c) the request is made in the proper exercise of such duties.

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS.

(a) In General.—Section 1614(a)(3)(H) (12 U.S.C. 1382a(b)(3)(A)) is amended by adding at the end the following:

"(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) takes effect upon the expiration of the 3-month period beginning on the date on which this Act takes effect, and shall take effect on the expiration of the 3-month period beginning on the date on which this Act takes effect; except that such amendment shall not apply to benefits for periods beginning before the effective date of such amendment.

Sec. 9608. NARROWING OF SSI ELIGIBILITY ON BASIS OF MENTAL IMPAIRMENTS.

(a) In General.—Section 1614(a)(3)(A) (12 U.S.C. 1382a(b)(3)(A)) is amended by striking "and (16)" and inserting "(17)".

(b) LIMITATIONS ON APPROPRIATIONS.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) takes effect upon the expiration of the 3-month period beginning on the date on which this Act takes effect, and shall take effect on the expiration of the 3-month period beginning on the date on which this Act takes effect; except that such amendment shall not apply to benefits for periods beginning before the effective date of such amendment.

Sec. 9609. REDUCTION IN UNEMPLOYED INCOME EXCLUSION.

(a) In General.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking "$10" and inserting "$15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 901. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 902. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) CERTIFICATION PERIOD.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(1)(A)) is amended by striking "10" and inserting "15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to months beginning after December 31, 1995.
SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(a)(1)) is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which authorization to accept and redeem coupons under the food stamp program shall be valid:"

SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(a)(1)), as amended by section 903, is amended by adding at the end the following:

SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in the first sentence by inserting "or which may include relevant income and sales tax reporting documents," after "submit information;" and

(2) by inserting after the first sentence the following:

The regulations may require retail food stores or wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating information from other sources in order that the accuracy of information provided by such stores and concerns may be verified.

SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(d)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall prohibit a retail food store or wholesale food concern from accepting and redeeming coupons for acceptance to and redemption denied or that has such an approval withdrawn on the basis of business integrity and reputation, and shall not submit a new application for approval. Such periods shall reflect the severity of business integrity infractions that are the basis of such denials or withdrawals.

SEC. 9707. REQUIREMENTS FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)(1)) is amended by adding at the end the following:

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS BASED ON BUSINESS INTEGRITY AND JUDICIAL REVIEW.

(a) Section 9(a)(a) of the Food Stamp Act of 1977 (7 U.S.C. 2020(a)(a)), as amended by section 907, is amended by adding at the end the following: "Such regulations may establish criteria under which the authorization of a retail food store or wholesale food concern to accept and redeem coupons may be suspended and must be suspended at the time such store or concern is initially found to have committed violations of program requirements. Such suspensions may coincide with the period of a review as provided for in section 9(a)(1). Such suspension shall be for a period of not less than 180 days, and shall not be for a period of not more than 365 days.

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)(1)) is amended—

(1) in the first sentence by inserting "suspending," before "has been imposed;

(2) in the fifth sentence by inserting before the period at the end the following: "the finding of violations and the suspension pursuant to section 9(a) of such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action.

SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED FROM THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

SEC. 9710. PENALTIES FOR RETAILERS WHO INTENTIONALLY SUBMIT FALSE APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(I)(iii) of the Social Security Act (42 U.S.C. 605(c)(2)(I)(iii)) (as amended by section 9712 of the Social Security Act) is amended—

SEC. 9713. EXPANDED AUTHORITY TO SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 316(b) of the Social Security Act (42 U.S.C. 6109ffl(2)) is amended by adding to subsection (a) the following:

SEC. 9714. EXPANDED AUTHORITY TO SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 316(b) of the Social Security Act (42 U.S.C. 6109ffl(2)) is amended by adding to subsection (a) the following:

SEC. 9715. EXPANDED AUTHORITY TO SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 316(b) of the Social Security Act (42 U.S.C. 6109ffl(2)) is amended by adding to subsection (a) the following:
(11) "(1) by striking "six months" and inserting "1 year" and inserting "shall not approve such a system unless the Secretary makes a determination that the group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

(ii) permanently upon any finding by a Federal, State, or local court of the fraud, misrepresentation, orMorality of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).)".

(2) in clause (ii) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A before the period at the end of the following:

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking "officers and employees" in paragraph (3), by striking "the Secretary shall not approve such a system unless the Secretary makes a determination that the area in which the individuals reside—

(i) permanently upon any finding by a Federal, State, or local court of the fraud, misrepresentation, orPositivity of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).)"

(2) by striking clauses (ii) and (iii) and inserting the following:

(2) by striking clauses (ii) and (iii) and inserting the following:

(3) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A before the period at the end of the following:

(c) Section 6103(1) of the Internal Revenue Code (26 U.S.C. 6103(1)) is amended—

(1) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees, or agents, including State agencies"; and

(2) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees, or agents, including State agencies".

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2022(e)(8)) is amended by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A before the period at the end of the following:

(b) Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2022(e)(8)) is amended by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A before the period at the end of the following:

(c) Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(1) by striking "(11)" and inserting "(II)"; and

(2) in clause (11) by inserting "through October 1, 1994 after each October 1 thereafter"; and

(3) by inserting before the period at the end of the following:

Sec. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end of the following:

(1) by amending paragraph (1) to read:

(II) a court is allowing the individual to participate in an approved employment and training program under section 20 or a comparable State or local government program; or

(II) the individual was employed and trained under a State or local government program that meets the participation requirements of section 20.

(2) by striking "six months" and inserting "1 year" and inserting "shall not approve such a system unless the Secretary makes a determination that the area in which the individuals reside—

(ii) permanently upon any finding by a Federal, State, or local court of the fraud, misrepresentation, orPositivity of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).)"

Sec. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

Sec. 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(1) by striking "(II)" and inserting "(II)"; and

(2) in clause (11) by inserting "through October 1, 1994 after each October 1 thereafter"; and

(3) by inserting before the period at the end of the following:

Sec. 9723. WORK REQUIREMENT FOR ABLE-BODIED ASSISTED FAMILIES.

(a) In GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by striking sections 9481, 9492, 9720, and 9721, and is amended by adding at the end the following:

"(II) has an unemployment rate of over 8 percent; or

(II) does not have a sufficient number of jobs to provide employment for the individual.

(B) REPORT.—The Secretary shall report on the basis for a waiver under subparagraph (A), to the Committee on Agriculture of the Senate, the Committee on Appropriations of the Senate, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the House of Representatives.

(c) WORK AND TRAINING PROGRAMS.—Sec- tion 102(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015)(f)(l) is amended by adding at the end the following:

(1) REQUIRED PARTICIPATION IN WORK AND TRAINING PROGRAMS.—A State agency shall provide an opportunity to participate in the employment and training program under this paragraph to any individual, who would otherwise become subject to disqualification under subsection (i).

(II) the individual was employed and trained under a State or local government program that meets the participation requirements of section 20.

(II) the individual was employed and trained under a State or local government program that meets the participation requirements of section 20.

(II) has an unemployment rate of over 8 percent; or

(II) does not have a sufficient number of jobs to provide employment for the individual.

(2) EXCEPTION.—Paragraph (1) shall not ap- ply if—

(A) a court is allowing the individual to participate in an approved employment and training program under section 20 or a comparable State or local government program; or

(A) a court is allowing the individual to participate in an approved employment and training program under section 20 or a comparable State or local government program; or

(2) in clause (11) by inserting "through October 1, 1994 after each October 1 thereafter"; and

(3) by inserting before the period at the end of the following:

Sec. 9724. PROVISION OF WORK REQUIREMENTS.—In this subsection, the term ‘work program’ means—

(A) a program under the Job Training Partnership Act (29 U.S.C. 2801 et seq.); or

(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2286); or

(C) a program of employment or training operated or supervised by a Federal, State, or local government, as determined appropriate by the Secretary.

(2) WORK REQUIREMENT.—No individual shall be eligible to participate in the food stamp program as a member of any house- hold if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the indi-vidual did not—

(3) in paragraph (3), by striking "officers and employees" in paragraph (3), by striking "the Secretary shall not approve such a system unless the Secretary makes a determination that the area in which the individuals reside—

(ii) permanently upon any finding by a Federal, State, or local court of the fraud, misrepresentation, orPositivity of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).)"

(2) by striking clauses (ii) and (iii) and inserting the following:

(2) by striking clauses (ii) and (iii) and inserting the following:

(3) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A before the period at the end of the following:

(c) Section 6103(1) of the Internal Revenue Code (26 U.S.C. 6103(1)) is amended—

(1) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees, or agents, including State agencies"; and

(2) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees, or agents, including State agencies".

SEC. 9716. PROMOTION OF EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(i)) is amended—

(1) by amending paragraph (1) to read:

(II) a court is allowing the individual to participate in an approved employment and training program under section 20 or a comparable State or local government program; or

(II) has an unemployment rate of over 8 percent; or

(II) does not have a sufficient number of jobs to provide employment for the individual.

(B) REPORT.—The Secretary shall report on the basis for a waiver under subparagraph (A), to the Committee on Agriculture of the Senate, the Committee on Appropriations of the Senate, and the Committee on Ways and Means of the House of Representatives.

(c) WORK AND TRAINING PROGRAMS.—Sec- tion 102(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015)(f)(l) is amended by adding at the end the following:

(2) in clause (11) by inserting "through October 1, 1994 after each October 1 thereafter"; and

(2) in clause (11) by inserting "through October 1, 1994 after each October 1 thereafter"; and

(3) by inserting before the period at the end of the following:

Sec. 9723. WORK REQUIREMENT FOR ABLE-BODIED ASSISTED FAMILIES.

(a) In GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by striking sections 9481, 9492, 9720, and 9721, and is amended by adding at the end the following:

"(II) has an unemployment rate of over 8 percent; or

(II) does not have a sufficient number of jobs to provide employment for the individual.

(2) EXCEPTION.—Paragraph (1) shall not ap-
SEC. 9752. AVAILABILITY OF COMMODITIES.

In each fiscal year in a manner the State determines that it will not accept portions of such allocation during each of fiscal years 1996 through 2000 to purchase a variety of nutritious commodities and the products thereof made available under (2) of the second reference in subsection (a) of the Food Stamp Act of August 24, 1935 (7 U.S.C. 612c), which are not expended or needed to carry out such section, to purchase, process, and distribute commodities of the types customary to the process or distribute such commodities to the States for distribution in accordance with this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under subsection (2) of the second reference in subsection (a) of the Food Stamp Act of August 24, 1935 (7 U.S.C. 612c), may be made available by the Secretary to the States for distribution in accordance with this chapter.

The second sentence of section 3(i) of the Food Stamp Act of 1977 is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

The Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "September 30, 2002." before "to finance financing and administration every four years at such level as will serve needy persons in a single geographical area which includes such States.

SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION OF COMMODITIES.

(a) The Secretary shall establish procedures under which State and local agencies, recipient agencies, or any other entity or entity may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities donated for distribution, in all or part of the States in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(3) set forth the standards of eligibility for each of fiscal years 1996 through 2000.

(4) set forth the standards of eligibility for individual or household recipients of commodities which at minimum shall require—

(4) set forth the standards of eligibility for individual or household recipients of commodities which at minimum shall require—

A) individuals or households to be comprised of needy persons; and

B) individual or household members to be residing in the geographical area served by the distributing agency at the time of application for assistance.

(c) The Secretary shall ensure each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this chapter in the States.

(d) A State agency receiving commodities under this chapter may—

(2) enter into cooperative agreements under which State agencies or local governmental entities may provide commodities received under this chapter to eligible recipient agencies that are likely to be commodities in the same geographical area which includes such States.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9706, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 percent of such total value of commodities shall be allocated to each State having an allocation of $150,000 for each of fiscal years 1996, 1997, and 1998.

(2) by redesigning subparagraph (D) as subparagraph (B) and inserting paragraph (3)). by striking 

(1) the funds appropriated for administration of cost under section 9159(b).

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter.

(3) the personell, both paid or volunteer, involved in such storage, handling, or distribution to store, handle or distribute commodities donated for use under subsection (a).

(3) the preferences and needs of States and distributing agencies and

(3) the preferences of the recipients.

SEC. 9756. EXTENDING CURRENT CLAIMS RETENTION RATES.

The second sentence of section 3(i) of the Food Stamp Act of 1977 is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

Chapter 2—Commodity Distribution

SEC. 9751. SHORT TITLE.

This chapter may be cited as the "Commodity Distribution Act of 1993".

SEC. 9752. AVAILABILITY OF COMMODITIES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary") is authorized during fiscal years 1996 through 2000 to purchase a variety of nutritious commodities and distribute such commodities to the States for distribution in accordance with this chapter.

(b) In addition to the commodities described in subsection (a), the Secretary may expend funds made available to carry out the transfer of commodities made pursuant to section 9754, the Commodities Credit Corporation that the Secretary determines, in purchasing such commodities, except those commodities purchased pursuant to section 9706, the Secretary shall determine the extent practicable and appropriate to the Secretary.

(c) The Secretary shall allocate the commodities in such a manner that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States having incomes below the poverty line within the same fiscal year.

Each State shall receive the value of commodities allocated pursuant to this paragraph.

(2) 40 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States having incomes below the poverty line within the same fiscal year.

Each State shall receive the value of commodities allocated pursuant to this paragraph.

(b) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under this subsection and the transfer of commodities made pursuant to this subsection.

SEC. 9757. STATE RESPONSIBILITY FOR DISTRIBUTION.
is appropriate and the Secretary shall reallocate the remaining allocations to States or regions as appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantially the populations of one or more States, the Secretary may request that States unaffected by such a disaster coordinate their activities with the Secretary to reallocate commodities from such unaffected State to States containing areas adversely affected by the disaster.

(c) Purchases of commodities under this chapter shall be made by the Secretary at such times and under such conditions as the Secretary deems appropriate within each fiscal year. All commodities so purchased for such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and carried out section 9760, not later than December 31 of the following fiscal year.

SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.

(a) In distributing the commodities allocated under subsection (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise distribute, its full allocation of commodities for distribution to emergency feeding organizations.

(b) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsection (a), its remaining allocation of commodities shall be distributed to charitable institutions described in section 9763(b)(3) not receiving commodities under subsections (a) and (b).

(c) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsections (a) and (b), its remaining allocation of commodities shall be distributed to any eligible recipient agency not receiving commodities under subsections (a) and (b).

SEC. 9757. INITIAL PROCESSING COSTS.

The Corporation of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter, including the obligations of the Secretary determined by the Secretary, for use by the individual households or eligible recipient agencies, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

SEC. 9758. ASSURANCES: ANTICIPATED USE.

(a) The Secretary shall take such precautions as the Secretary deems necessary to ensure that commodities made available under this chapter will not displace commercial sales of such commodities or the products of such industries.

(b) The Secretary shall determine that commodities provided under this chapter shall be purchased and distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of the amounts based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) The Corporation of the Commodity Credit Corporation is authorized to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) Funds allocated to a State under this section may be used by the State only to the extent that applications are received before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required to be made by the State and the estimated percentage of such commodities distributed to the States in accordance with this chapter.

(c) ADMINISTRATIVE FUNDS.

(I) The amount appropriated for administrative expenses under section 9760(b) shall not be covered by this paragraph.

(II) States may not charge for commodities made available to eligible recipient agencies, and may not pass on to such recipient agencies the cost of any matching requirements, if any.

(d) VALUE OF COMMODITIES—The value of the commodities made available under subsections (c) and (d) of section 9752, and the funds of the Corporation used to pay the costs of initial processing, packaging, and administrative expenses, shall be reduced by the amounts from those that were available or were planned at the beginning of the fiscal year referred to in this section.

SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) From the funds appropriated under section 9759(a), $94,500,000 shall be used for each fiscal year to purchase and distribute commodities to eligible recipient agencies referred to as the 'commodity supplemental food program', or serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the 'commodity supplemental food program').

(b) Not more than 20 percent of the funds made available under subsection (a) shall be used to cover the expenses of State and local administrative agencies excluding staff, warehouse, and transportation expenses.

(c) Costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

SEC. 9761. INITIAL PROCESSING COSTS.

The Corporation shall not be required to make payments to States to cover costs associated with the distribution of commodities to eligible recipient agencies under this section.

SEC. 9762. AUTOMATIC APPROPRIATIONS.

Tens of thousands of people receive food assistance under the Supplemental Nutrition Assistance Program (SNAP), which provides food assistance to low-income households and individuals. The program is administered by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA). It is funded by the U.S. Department of Agriculture's (USDA's) Food and Nutrition Service (FNS)

(b) Funds allocated to a State under this section may be used by the State only to the extent that applications are received before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required to be made by the State and the estimated percentage of such commodities distributed to the States in accordance with this chapter.
program for the fiscal year and without reducing actual participation (including participation of elderly persons under subsection (e)) in areas in which the program is in effect.

(e) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available under this chapter for distribution exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(f)(1) If it is necessary for the Secretary to pay a significant amount to help pay for a meal, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decrease.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(3) The term “commodity supplemental food program” means a public or nonprofit organization that administers and projects, including those of any charitable institution, a commodity supplemental food program to low-income and unemployed persons.

(4) The term “commodity supplemental food program” means an organization that administers and projects, including those of any charitable institution, a commodity supplemental food program to low-income and unemployed persons.

SEC. 9755. ECONOMIC FUTURE OF THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013) shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 9757, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

(3) The term “soup kitchen” means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding institutions that, as an integral part of their normal activities, provide meals or food to needy persons on a regular basis.

(7) The term “elderly persons” means—

(A) individuals who have low incomes or who are unemployed, as determined by the State (in no event shall the income of such individual or household exceed 185 percent of the poverty line);

(B) households certified as eligible to participate in the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011) et seq.;

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(b) AMENDMENTS.—

(1) The Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by striking section 110; and

(B) by striking section 502.


(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1502(a) and section 1571; and

(B) in section 1521(d) by striking “section 4 of the Agricultural and Consumer Protection Act of 1973” and inserting “section 9732 of the Commodity Distribution Act of 1995.”

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SIGNIFICANT CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excess investment income) is amended—

(1) by striking “and”,

(2) by striking “or agency of the Government,” and inserting “or a disaster relief program, and”,

(3) by striking “in excess of”, and inserting “in excess of, and”;

(4) by striking “or agency of the Government,” and inserting “or agency of the Government, or”;

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Alternative Minimum Tax on Corporations

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

PART X: ALTERNATIVE MINIMUM TAX ON CORPORATIONS

(a) AMENDMENTS.—

(1) the knowledge by the Secretary of the Department of Labor.
"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES"

Sec. 598. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Sec. 598. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) General.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

(b) Taxpayers to Which Section Applies.—This section shall apply to any corporation—

(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, in excess of $10,000,000.

(2) during that same tax year parts or products imported into the United States by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States.

(c) Tax Obligation.—The tax obligation under this section shall exceed the tax otherwise determined in accordance with the following requirements:

(i) Children Eligible for Free or Reduced Price Meals Under Section 9.—The children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

(ii) Other Factors.—A family or group day care home shall be provided reimbursement factors under this subparagraph without a requirement for documentation of the costs described in paragraph (a)(2) if the reimbursement shall not be provided under this subsection for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

(iii) Other Factors.—The Secretary may establish any other factors under this subparagraph.

(d) Definitions.—For purposes of this section:

(1) Child.—A child who is a member of a household whose income meets the eligibility standards for free or reduced price meals under section 9.

(2) Family or Group Day Care Home.—A family or group day care home that serves the home. The procedures prescribed under subsection (iv) shall be followed in determining the number of meals served.

(3) Family or Group Day Care Home Provider.—Any person acting as a family or group day care home provider.

(4) Household.—Any number of persons residing at the same address as a family or group day care home provider.

(5) Persons.—Any individual or individuals.

(6) Person acting as a family or group day care home provider.—Any individual or individuals providing—

(a) Care for children in the home of the individual or individuals.

(b) Child care services at a location other than the home of the individual or individuals.

(c) Care for children in the home of the individual or individuals.

(d) Child care services at a location other than the home of the individual or individuals.

(e) Care for children in the home of the individual or individuals.

(f) Child care services at a location other than the home of the individual or individuals.

(g) Care for children in the home of the individual or individuals.

(h) Child care services at a location other than the home of the individual or individuals.

(i) Care for children in the home of the individual or individuals.

(j) Child care services at a location other than the home of the individual or individuals.

(k) Care for children in the home of the individual or individuals.

(l) Child care services at a location other than the home of the individual or individuals.

(m) Care for children in the home of the individual or individuals.

(n) Child care services at a location other than the home of the individual or individuals.

(o) Care for children in the home of the individual or individuals.

(p) Child care services at a location other than the home of the individual or individuals.

(q) Care for children in the home of the individual or individuals.

(r) Child care services at a location other than the home of the individual or individuals.

(s) Care for children in the home of the individual or individuals.

(t) Child care services at a location other than the home of the individual or individuals.

(u) Care for children in the home of the individual or individuals.

(v) Child care services at a location other than the home of the individual or individuals.

(w) Care for children in the home of the individual or individuals.

(x) Child care services at a location other than the home of the individual or individuals.

(y) Care for children in the home of the individual or individuals.

(z) Child care services at a location other than the home of the individual or individuals.

(aa) Care for children in the home of the individual or individuals.

(bb) Child care services at a location other than the home of the individual or individuals.

(cc) Care for children in the home of the individual or individuals.

(dd) Child care services at a location other than the home of the individual or individuals.

(ee) Care for children in the home of the individual or individuals.

(ff) Child care services at a location other than the home of the individual or individuals.

(ff) Care for children in the home of the individual or individuals.

(II) Information and Determinations.—

(a) General.—If a family or group day care home elects to claim the factors described in subsection (ii), the family or group day care day care home sponsoring organization shall make the determinations specified in subsection (ii) and shall make the determinations in accordance with rules prescribed by the Secretary.

(b) Categorical Eligibility.—In making a determination under paragraph (a)(1)(A)(ii), the family or group day care home sponsoring organization may consider the existence of a family or group day care home sponsoring organization. The definition of a family or group day care home sponsoring organization may be determined by the Secretary.

(c) Factors for Children Only.—A family or group day care home provider shall determine eligibility for the child care program as provided in subsection (ii)(III) solely for the children participating in a program referred to in paragraph (b) if the home is not participating in a program referred to in paragraph (b). The Secretary may establish any other factors under this subparagraph.
"(b)(1) the amount of income of a sponsor (or his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(1) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(2) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and his spouse and the otherliens living with them in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in calculating the sponsor's Federal personal income tax liability under paragraph (a)(2)."

"(ii) any remaining amount among the States, based on the number of family day care home families and group day care homes participating in the program in the State in 1994 as a percentage of the number of all family day care homes participating in the program in the State in 1994."
household who are claimed by him as de-
pending on the determination of the Federal personal income tax liability; and
(iv) any payments of alimony or child support with respect to individuals not liv-
ing in the same household.
(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of the individual for any month shall be determined as follows:
(A) The total amount of the resources (determined as if the sponsor were applying for assistance under the State plan approved under this part, and by the State agency based upon such criteria as may be specified in the State plan, and upon such documentary evidence as may be required), and any such sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be con-
considered as the resources of other family members except to the extent such income or resources are actually available to such other members.
(i) The amount determined under subparagraph (A) shall be reduced by $1,500.
(ii) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States unless the State agency administering such plan deter-
mines that such sponsor either no longer exists or has become unable to meet such indi-
vidual's needs: and such determination shall be made by the State agency based upon such criteria as may be specified in the State plan, and upon such documentary evidence as may be required.
(iii) Any such sponsor (and his spouse) which is a public or private agency whose sponsor was a public or private agency shall be deemed to include one such share.
(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
(3) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be con-
considered as the resources of other family members except to the extent such income or resources are actually available to such other members.
(ii) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States unless the State agency administering such plan deter-
mines that such sponsor either no longer exists or has become unable to meet such indi-
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(iii) Any such sponsor (and his spouse) which is a public or private agency whose sponsor was a public or private agency shall be deemed to include one such share.
(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
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(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
(3) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be con-
considered as the resources of other family members except to the extent such income or resources are actually available to such other members.
(ii) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States unless the State agency administering such plan deter-
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(iii) Any such sponsor (and his spouse) which is a public or private agency whose sponsor was a public or private agency shall be deemed to include one such share.
(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
(3) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be con-
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(ii) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States unless the State agency administering such plan deter-
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(iii) Any such sponsor (and his spouse) which is a public or private agency whose sponsor was a public or private agency shall be deemed to include one such share.
(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
(3) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be con-
considered as the resources of other family members except to the extent such income or resources are actually available to such other members.
(ii) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States unless the State agency administering such plan deter-
mines that such sponsor either no longer exists or has become unable to meet such indi-
vidual's needs: and such determination shall be made by the State agency based upon such criteria as may be specified in the State plan, and upon such documentary evidence as may be required.
(iii) Any such sponsor (and his spouse) which is a public or private agency whose sponsor was a public or private agency shall be deemed to include one such share.
(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
(3) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be con-
considered as the resources of other family members except to the extent such income or resources are actually available to such other members.
(ii) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States unless the State agency administering such plan deter-
mines that such sponsor either no longer exists or has become unable to meet such indi-
vidual's needs: and such determination shall be made by the State agency based upon such criteria as may be specified in the State plan, and upon such documentary evidence as may be required.
(iii) Any such sponsor (and his spouse) which is a public or private agency whose sponsor was a public or private agency shall be deemed to include one such share.
(B) The amount determined under subparagraph (A) shall be reduced by $1,500.
"Sec. 212A. Requirements for sponsor’s affidavit of support:"

(c) EFFECTIVE DATE.—Subsection (a) of section 212A of the Immigration and Nationality Act (subsection (a) of section 212A of such Act) shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall not be earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under section 213A.

SEC. 982. EXTENSION FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS

(a) IN GENERAL.—Section 212(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(1)) is amended to read as follows:

"(a) PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT.—"

"(1) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

(2) AFFIDAVITS OF SUPPORT.—Any immigrant who seeks admission or adjustment of status, excluding an individual who has not been granted a public charge determination, unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A.

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 1001. SHORT TITLE: TABLE OF CONTENTS

(a) SHORT TITLE.—This title may be cited as the ‘Revenue Reconciliation Act of 1995’.

(b) TABLE OF CONTENTS.—

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(c) Classification of Subtitles—

Subtitle A—Tax Treatment of Expatriation

Subtitle B—Foreign Tax Credit Compliance

Subtitle C—Foreign Tax Credit Compliance

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

Subtitle E—Foreign Tax Credit Compliance

Subtitle F—Limitation on Section 936 Credit

Subtitle G—Tax Treatment of Certain Extraordinary Dividends

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Subtitle V—Tax Treatment of Certain Extraordinary Dividends

Subtitle W—Tax Treatment of Certain Extraordinary Dividends

Subtitle X—Tax Treatment of Certain Extraordinary Dividends

Subtitle Y—Tax Treatment of Certain Extraordinary Dividends

Subtitle Z—Tax Treatment of Certain Extraordinary Dividends

(d) EFFECTIVE DATE.—This title applies to taxable years beginning after December 31, 1995.

SECTION 9901. EARNED INCOME TAX CREDIT DENIED TO RESIDENTS OF FOREIGN COUNTRIES

(TITLE 1)
(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(d)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

(B) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements shall be treated as occurring.

(2) LIMITATION.—The value of property which is treated as not sold by reason of this section shall not exceed $100,000.

(A) DEFINITIONS.—For purposes of this section—

(A) EXPATRIATE.—The term ‘expatriate’ means—

(A) any United States citizen who relinquishes his citizenship, or

(B) any long-term resident of the United States who—

(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(a)(30)), or

(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and that foreign country which does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18 if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A) or (B)) for less than 5 taxable years before the date of relinquishment.

(B) DETERMINATION OF BENEFICIARIES’ INTEREST IN TRUST.—If an individual who is an expatriate is a beneficiary of a trust, the treatment of such individual as a beneficiary of such trust shall be based upon all relevant facts and circumstances, including the terms of trust distributions, and the existence of any court proceeding to determine whether such individual is a beneficiary of such trust.

(C) TREATMENT OF TAX.—Any tax paid under this section shall be treated as payment of the tax imposed by section 15960 on the individual as of such time, and the time and in the manner prescribed by the Secretary.

IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed immediately before the expiration of the time prescribed for payment of tax under section 6161 an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expiration date.

DEFERRAL.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the amount deferred shall be the amount of tax imposed by this chapter for such taxable year to which subsection (a) applies.

COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by a individual for any taxable year and—

(1) such property is includable in the gross estate of such individual solely by reason of section 2031 or 2518(a), or

(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a), there shall be allowed as a credit against the additional tax imposed by reason of this section with respect to the property of an interest in such trust or any other property of such trust is an individual citizen of the United States or a domestic corporation, such transfer shall be required to provide such security upon notification by the taxpayer of such requirement.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

(1) appropriate adjustments are made to basis which reflect gain recognized by reason of an event specified in subsection (a) and the exclusion provided by subsection (b), and

(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a depreciable asset of such property, and any interest in such trust is treated as holding directly under section 15960.

(4) DEFINITIONS.—For purposes of this section—

(A) ADEQUACY OF SECURITY INTERESTS.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2036A.

(B) SPECIAL RULE FOR TRUST.—If a taxpayer required to provide security in connection with any tax imposed by reason of this section with respect to the corpus of an interest in a trust, such taxpayer shall provide such security by the expiration of the time prescribed for payment of tax under section 6161 to such number of years as the Secretary determines appropriate.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

(1) appropriate adjustments are made to basis which reflect gain recognized by reason of an event specified in subsection (a) and the exclusion provided by subsection (b), and

(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a depreciable asset of such property, and any interest in such trust is treated as holding directly under section 15960.

(CROSS REFERENCE—...
For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(5)) United States citizenship on or after February 6, 1995.

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

"(b) CROSS REFERENCE.—For credit against the tax imposed by section (a) for expatriation tax, see section 877A(i)."

(d) Section 2501(a)(5) of such Code is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(a)."

(e) Section 5811 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(f) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: This paragraph shall exclude an individual who is a nonresident alien of any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).

(g) CEREMONIAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter I of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriates."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to expatriations which occur on or after February 6, 1995.

(2) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

(f) SEC. 1061. Basis of assets of nonresident aliens.

(1) SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIENS BECOMING CITIZENS OR RESIDENTS.

(a) IN GENERAL.—Part IV of subchapter O of chapter I of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

(1) General rule.—If a nonresident alien individual becomes a citizen or resident of the United States, the gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by subtracting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

(2) Exception for depreciation.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

(c) Definitions and Special Rules.—For purposes of this section—

(1) Applicable date.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

(A) the date the individual becomes a citizen or resident of the United States and

(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of owning a United States real property interest (within the meaning of section 897(c)(1)).

(2) Resident resident does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and such foreign country, and who and does not waive the benefits of such treaty applicable to residents of the foreign country.

(3) Trusts.—A trust shall not be treated as an individual.

(4) Election not to have section apply.—An individual may elect not to have this section apply solely for purposes of determining the gain or loss with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

(5) Section only to apply once.—This section shall apply only with respect to the first time the individual becomes either a citizen or residence of the United States.

(6) Regulations.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business.

(b) Conforming amendment.—The table of sections for part IV of subchapter O of chapter I of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

"Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

Sec. 1062. Cross-references.

(c) Effective date.—The amendments made by this section shall apply to dispositions after the date of the enactment of this Act and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 611) applies.

Subtitle B—Modification to Earned Income Credit

Title X, Subtitle C

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

(a) In general.—Subchapter A of chapter I of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

(b) In general.—Subchapter A of chapter I of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Sec. 10301 Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Sec. 1030B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Sec. 1030B Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Sec. 1030B Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.
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October 26, 1995

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(e) of the Internal Revenue Code of 1986 (relating to corporate shareholder’s basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) of such Code (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

(A) REDEMPTIONS.—In the case of any redemption of stock—

(i) which is part of a partial liquidation (within the meaning of section 302(e) of the Code) of the corporation, or

(ii) which is not pro rata as to all shareholders, or

(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(i) which is treated as a redemption for purposes of applying subparagraph (A) and

an amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (3) of subsection (b) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution; or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

Subtitle E—Foreign Trust Tax Compliance

SEC. 10501. INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns of certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO FOREIGN TRUSTS.

(a) NOTICE OF CERTAIN EVENTS.—

(I) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice to the Secretary in accordance with paragraph (2).

(II) CONTENTS OF NOTICE.—The notice required by paragraph (I) shall contain such information as the Secretary may prescribe, including—

(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event.

(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

(3) REPORTABLE EVENT.—For purposes of this subsection—

(A) IN GENERAL.—The term ‘reportable event’ means—

(i) the creation of any foreign trust by a United States person;

(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death;

(iii) the death of a citizen or resident of the United States if—

(I) the decedent was treated as the owner of any portion of the trust under the rules of subpart E of part I of subchapter J of chapter 1;

(ii) an attribution of a foreign trust was included in the gross estate of the decedent.

(B) EXCEPTIONS.—

(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any sale or exchange of property (if any) transferred to the trust in connection with the reportable event for carrying on a trade or business in the United States, or to be engaged, or to be treated as engaging, in a trade or business in the United States.

(ii) TRANSFER OF PROPERTY TO A TRUST IN A TRADE OR BUSINESS IN THE UNITED STATES.—The preceding sentence shall not apply to any sale or exchange of property (if any) transferred to a foreign trust in connection with the reportable event if the transferor was a United States person (i) who is treated as the owner of any portion of such foreign trust or (ii) who is treated as the owner of any portion of such trust for purposes of sections 7602, 7603, and 7604 with respect to—

(B) any request by the Secretary to examine any books or records or to require the Secretary to examine or review any other evidence to determine whether there is a failure to take into account amounts required to be taken into account under the rules referred to in subparagraph (A), or

(iv) any summons by the Secretary for such records or testimony.

(3) REQUIREMENTS APPLICABLE TO CERTAIN DIVIDENDS NOT PURSUANT TO SECTION 871(J) OF THE INTERNAL REVENUE CODE—

(A) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

(i) the name of such trust;

(ii) the aggregate amount of the distributions so received from such trust during such taxable year, and

(iii) such other information as the Secretary may prescribe.

(B) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the correct amount of taxable income attributable to a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributary owner. For purposes of paragraph (A), "accumulation distribution" means—

(1) any distribution from a foreign trust which is treated as an accumulation distribution in the United States person’s return, and

(2) any distribution from a foreign trust which is not treated as an accumulation distribution in the United States person’s return but is treated as an accumulation distribution in the hands of another person under the rules of sections 871, 872, 874, and 875.

(4) SPECIFIC RULES. —Such trustee may prescribe the following rules:

(A) IN GENERAL.—If any United States person acts as such trust’s agent under the rules of this section, the Secretary may prescribe such rules as are necessary to carry out the provisions of sections 871, 872, 874, and 875.

(B) DETERMINATION OF WHOSE SMALL TRUSTS. —For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subsection (a) of section 871 or of sections 874, 875, and 876 is disregarded.

(C) FOREIGN PERSONS.—For purposes of this section, "United States person" includes any foreign person with respect to whom the Secretary has determined that taxable income attributable to such trust is includible in the gross income of such United States person under sections 871, 872, 874, and 875.
such Code amended by striking the item relating to section 6067 and inserting the following new item:

"Sec. 6067. Failure to file information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 63 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.

(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b): (1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and (2) subsection (a) shall be applied by substituting '5 percent' for '3 percent'.

(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (b), the term 'gross reportable amount' means—

(i) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

(ii) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

(iii) the gross amount of the distributions in the case of a failure relating to section 6048(b)(3).

(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subsection (c) (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by section (a).

(f) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6772(d) of such Code is amended by striking "or" at the end of subsection "as determined by the person at the end of subparagraph (T) and inserting "or", and by inserting after subparagraph (T) the following new subparagraph:

(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).

(2) The table of sections for subpart B of part I of chapter 63 of such Code is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 63 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

(c) SEQUENTIAL MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—

(a) TREATMENT OF TRUST OBLIGATIONS ETC.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) of subparagraph (c), there shall not be taken into account—

(i) any obligation of a person described in subparagraph (B) or (C), and

(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of such transfer in determining the portion of the trust attributable to the property transferred.

(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

(i) the grantor, or any grantor or beneficiary of the trust, and

(ii) any person who is related (within the meaning of section 6321(c)(3)) to any grantor or beneficiary of the trust.

(D) EXCPTION FOR TRUSTS CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking 'section 4944(a) or 4944A and inserting 'section 4943A(a)(1)(B) or (1)(C)'.

(E) OTHER MODIFICATIONS.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTEE WHO LATER BECOMES A UNITED STATES PERSON.—

(A) IN GENERAL.—If a nonresident alien individual has a residency starting date

(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend, or partially suspend, the filing requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.

(c) SEQUENTIAL MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.—The amendments made by this section shall apply to reportable events occurring after the date of the enactment of this Act.

(T) the Table of sections for subpart B of chapter 68 of such Code is amended by striking the item relating to section 6791 and inserting the following new item:

"Sec. 6791. Foreign trusts having one or more United States beneficiaries.

(b) THE UNITED STATES PERSON'S RESIDENCY STARTING DATE.—(1) In the case of a foreign trust having one or more United States beneficiaries, the residency starting date for such foreign trust shall be the date of the enactment of this Act.

(c) OUTBOUND TRUST MIGRATIONS.—If—

(A) any person who is a United States person at any time during the estate of such foreign trust, and

(B) such trust becomes a foreign trust which has United States beneficiaries,

then this section and section 6048 shall be applied as if such individual transferred to such foreign trust an amount equal to the United States share of such trust attributable to property previously transferred by such individual to such foreign trust.

A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—

Subsection (c) of section 679 of such Code is amended by adding at the end the following new subsection:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to the United States share of property of foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

(A) IN GENERAL.—Notwithstanding any provision of this subsection, the term 'United States person' shall include any person who was a United States person at any time during the existence of the trust.

"(4) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(1) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a corporation treated as a United States person (as defined in section 956(a))."

(f) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

"(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after December 31, 1994.

"(5) FOREIGN PERSONS.—Section 1053(f)(1) of the United States Code is amended to read as follows:

"(f) OWNERS OF UNITED STATES CORPORATION.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.

"(6) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(1) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a corporation treated as a United States person (as defined in section 956(a))."

(f) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property made after December 31, 1994.

"(g) FOREIGN PERSONS.—Section 1053(f)(1) of the United States Code is amended to read as follows:

"(f) OWNERS OF UNITED STATES CORPORATION.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.

"(6) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(1) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a corporation treated as a United States person (as defined in section 956(a))."

(g) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after December 31, 1994.

"(g) FOREIGN PERSONS.—Section 1053(f)(1) of the United States Code is amended to read as follows:

"(f) OWNERS OF UNITED STATES CORPORATION.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.

"(6) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(1) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a corporation treated as a United States person (as defined in section 956(a))."
'"(i) In GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

'(I) the power to vest absolutely in the grantor title to the trust property upon the death of the grantor or the transferor, or any successor in interest of the grantor, is retained by the grantor or the transferor, or any successor in interest of the grantor,

'(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributed to the grantor or the spouse of the grantor,

'(iii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust.

For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

'(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distribution which is not allocable as compensation for services rendered.

'(C) SPECIFIC RULES.—Except as otherwise provided in regulations prescribed by the Secretary,

'(I) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraphs (1) and (2), and

'(II) paragraph (1) shall not apply to purposes of applying part III of subchapter C (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

'(D) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferor treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

'(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply to the purposes.

'(F) LAST SENTENCE.—The last sentence of subsection (c) of section 672 of such Code is amended by inserting in such section—

'(i) the aggregate undistributed net income,

'(ii) the undistributed net income for such year,

'(iii) the qualified income of the settlor, in each case the undistributed income of which is the amount of income which would be determined on the basis of the distribution of the income to the beneficiaries, and

'(iv) the aggregate undistributed net income,

'(v) the qualified income of the settlor, in each case the undistributed income of which is the amount of income which would be determined on the basis of the distribution of the income to the beneficiaries.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 10504 the following new section—

'SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

'(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 10504 the following new section—

'SEC. 10505. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

'(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 664 of the Internal Revenue Code of 1986 (relating to the interest charge on accumulation distributions from foreign trusts) is amended by inserting in appropriate cases.

'SEC. 10506. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

'(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 664 of the Internal Revenue Code of 1986 (relating to the interest charge on accumulation distributions from foreign trusts) is amended by inserting in appropriate cases.

'SEC. 10507. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

'(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 664 of the Internal Revenue Code of 1986 (relating to the interest charge on accumulation distributions from foreign trusts) is amended by inserting in appropriate cases.

'(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 664 of the Internal Revenue Code of 1986 (relating to the interest charge on accumulation distributions from foreign trusts) is amended by inserting in appropriate cases.

'SEC. 10508. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

'(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 664 of the Internal Revenue Code of 1986 (relating to the interest charge on accumulation distributions from foreign trusts) is amended by inserting in appropriate cases.
purposes of this subsection, an accumulation distribution from a trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

(6) INTEREST.—Any interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

(A) by using an interest rate of 6 percent, and

(B) without compounding until January 1, 1996.

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (8) the following new paragraph:

(9) ABUSIVE TRANSACTIONS.—The provision of such Code shall be treated for purposes of subparts B, C, and D—

(A) as if such Code were amended by inserting after such paragraph (8) the following:

"(A) any loan or the use of any property (other than cash or marketable securities) by a person referred to in subparagraphs (A) or (B) of paragraph (1) shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be)."

(B) the uses of other trust property after December 31, 1995.

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(I) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(I) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

(I) IN GENERAL.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

(A) any grantor or beneficiary of such trust or

(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be)."

(II) RELATED PERSON.—

(I) IN GENERAL.—A person is related to another person if, with respect to both persons, a third person, who is not a foreign trust, would be treated as a related person (as defined in subparagraph (A)) of such third person.

(II) EXCLUSION OF TAX-EXEMPTS.—The term ‘qualified possession wages’ shall include qualified foreign currency and cash equivalents.

(III) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by striking subparagraph (a) and inserting after subparagraph (a) the following:

"(b) CREDIT FOR INVESTMENT INCOME.—The credit..."
(D) WAGES.—

(1) IN GENERAL.—Except as provided in clause (2), wages (as defined in section 3401(a) of the Internal Revenue Code of 1986) derived after the application of clause (2) of paragraph (4) of section 311(h) of the Code shall be treated as wages for purposes of the preceding sentence.

(2) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term ‘wages’ shall be determined in such case under section 51(h)(2).

(2) QPSII ASSETS.—For purposes of this section—

(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year are the average of the amounts of the possession corporation’s qualified investment assets as of the close of each quarter of such taxable year.

(B) QUALIFIED INVESTMENT ASSETS.—The term ‘qualified investment assets’ means the aggregate adjusted bases of the assets which are held by the possession corporation and the portions from which qualified as the qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term ‘United States’ included all possessions of the United States within such possession. For purposes of the preceding sentence, the adjusted basis of any asset within such possession shall be its basis to such corporation for which the election provided by section 51(h)(2).

(A) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case—

(i) in paragraph (1) of section 51(h) of this title, the term ‘wages’ shall be determined in such case under section 51(h)(2).

(ii) there is no reason to believe that such commencement was done with the intention of closing down operations of an existing business located in the United States.

(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

(A) IN GENERAL.—Any affiliated group may elect to aggregate for corporation purposes which would be members of such group but for section 5404(d)(4) of such 1 corporation for purposes of this section. The credit determined under such subsection (a) with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c),—

(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4).

(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits. If the possession corporation is a member of such possession of the United States by reason of subsection (c), such possession corporation shall allow a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

(7) POSSESSION CORPORATION.—The term ‘possession corporation’ means a domestic corporation for which the election provided in subsection (a) is in effect.

(d) MINIMUM TAX TREATMENT.—Clause (iii) of section 59(d)(1) of such Code is amended by adding at the end thereof the following subclauses:

(iii) SUBSIDIARY APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 90(d) shall be applied as if dividends received from a corporation eligible for the credit provided by section 966 were a separate category of income referred to in a subparagraph of section 90(d)(1).

(iv) CREDIT LIMITATION ON §6 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 966 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (d) of section 243 after the application of clause (ii)(d) (e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle XI—COMMITTEE ON VETERANS’ AFFAIRS

Title XI—COMMITTEE ON VETERANS’ AFFAIRS

Sec. 11011. Short title: table of contents. (a) Short title.—This title may be cited as the ‘‘Veterans Reconciliation Act of 1995’’.

(b) TABLE OF CONTENTS.—The contents of the title are as follows:

Sec. 11011. Definition of ‘‘Veterans’’.

Sec. 11012. Veterans’ preferences.

Title XI—VETERANS’ AFFAIRS

Sec. 11011. Short title: table of contents.

Subtitle A—Permanent Extension of Special Authorities

Title XI—VETERANS’ AFFAIRS

Sec. 11011. Limitation on pension for certain recipients of Medicaid-covered nursing home care.

Sec. 11011. Home loan fees.

Sec. 11016. Proceeds allocable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Sec. 11022. Enhanced loan asset sale authority.

Sec. 11023. Withholding of payments and benefits.

Sec. 11012. Special authority for priority health care for Persian Gulf veterans.

Sec. 11033. Promoting health care reform.

Sec. 11034. Management of health care.

Sec. 11035. Improved efficiency in health care resource management.

Sec. 11036. Sharing of veteran special medical resources.

Subtitle V—Permanent Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.

Subtitle V—PERMANENT EXTENSION OF TEMPORARY AUTHORITIES

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.

Title I—INCOME VERIFICATION AUTHORITY

Sec. 11012. Medical care cost recovery authority.

Title XI—VETERANS AFFAIRS

Sec. 11013. Income verification authority.

Title II—HOME LOAN FEES

Sec. 11014. Limitation on pension for certain recipients of Medicaid-covered nursing home care.

Title II—HOME LOAN FEES

Sec. 11015. Home loan fees.

Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Sec. 11017. Title XI of title 38. United States Code is amended by striking out ‘‘before October 1, 1998’’ and substituting ‘‘before October 1, 1998’’.

Sec. 11018. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Subtitle B—OTHER MATTERS

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Sec. 11022. Enhanced loan asset sale authority.

Sec. 11023. Withholding of payments and benefits.

Sec. 11012. Special authority for priority health care for Persian Gulf veterans.

Sec. 11033. Promoting health care reform.

Sec. 11034. Management of health care.

Sec. 11035. Improved efficiency in health care resource management.

Sec. 11036. Sharing of veteran special medical resources.

Sec. 11037. Personnel furnishing shared resources.

Title V—TREATMENT OF CERTAIN TAXES

Sec. 11012. Medical care cost recovery authority.

Sec. 11014. Limitation on pension for certain recipients of Medicaid-covered nursing home care.

Sec. 11015. Home loan fees.

Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.

Sec. 11022. Enhanced loan asset sale authority.

Sec. 11023. Withholding of payments and benefits.

Sec. 11012. Special authority for priority health care for Persian Gulf veterans.

Sec. 11033. Promoting health care reform.

Sec. 11034. Management of health care.

Sec. 11035. Improved efficiency in health care resource management.

Sec. 11036. Sharing of veteran special medical resources.

Sec. 11037. Personnel furnishing shared resources.
veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

(b)(1) For purposes of this section, a disability or death of a veteran which is not a qualifying additional disability or a qualifying death only if the disability or death—

(A) was caused by Department health care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(g)(A) of this title).

(B) a disability or death of a veteran which is not a qualifying additional disability or a qualifying death due to the veteran's willful misconduct is not a qualifying disability or death for purposes of this section;

(C) by adding at the end following:

(ii) an event not reasonably foreseeable;

(D) was the result of the pursuit of a course of vocational rehabilitation under chapter 37 of title 38, United States Code; or

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking "aggravation," both places it appears; and

(2) by striking "sentence" and inserting "request.";

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by—

(A) the Secretary shall, to the extent and in the amount provided in advance in appropriate Acts for these purposes, provide hospital care and medical services, and may provide nursing home care to the extent necessary to ensure that such care is furnished under any law administered by the Secretary to such veteran.

(b) CONFORMING AMENDMENTS.—Section 1706 of this title, the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(a) of such title is amended—

(1) by striking out piping project"; and

(2) by inserting a hospital care, medical services, and nursing home care which the Secretary determines is needed.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(a) of such title is amended—

(1) by striking out piping project"; and

(2) by inserting a hospital care, medical services, and nursing home care which the Secretary determines is needed.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(a) of such title is amended—

(1) by striking out piping project"; and

(2) by inserting a hospital care, medical services, and nursing home care which the Secretary determines is needed.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(a) of such title is amended—

(1) by striking out piping project"; and

(2) by inserting a hospital care, medical services, and nursing home care which the Secretary determines is needed.

(b) CONFORMING AMENDMENTS.—(1) Section 1710(a) of such title is amended—

(1) by striking out piping project"; and

(2) by inserting a hospital care, medical services, and nursing home care which the Secretary determines is needed.
1710(a) of this title, the Secretary shall—

the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b) In managing the provision of hospital care and medical services under section 1710 of this title, the Secretary shall—

"(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

"(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary determines appropriate to provide such needed care and services.

"(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary determines necessary to maintain an acceptable level and quality of care to veterans at that facility; or

"(D) in managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary considers appropriate to provide such needed care and services.

"(D) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary considers appropriate to provide such needed care and services.

"(D) in managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary determines appropriate to provide such needed care and services.

"(D) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary determines appropriate to provide such needed care and services.

"(D) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary determines appropriate to provide such needed care and services.

"(D) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary determines appropriate to provide such needed care and services.

"(D) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and multiple service-connected disabilities), and such health care services as the Secretary determines appropriate to provide such needed care and services.
and inserting in lieu thereof "THROUGH 1996. - (a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of the enactment of this Act, is authorized for disposal under any authority provided in subsection (a)(2) after the date on which the total amount of receipts for disposal by the President under paragraph (I) reaches $21,000,000 during the fiscal year ending September 30, 1996. (B) $649,000,000 during the five-fiscal year period ending on September 30, 2000; and (C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002. (3) The President shall not be required to include in any annual materials plan for the National Defense Stockpile disposals made under this section which would be made without consideration of the requirements of an annual materials plan. (b) DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) of this section are listed in the amounts set forth in the following table: 

<table>
<thead>
<tr>
<th>Material for Disposal</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aluminum short tons</td>
<td>62.851</td>
</tr>
<tr>
<td>Cobalt pounds</td>
<td>42,482.332</td>
</tr>
<tr>
<td>Ferro Columbium</td>
<td>930.911 pounds contained</td>
</tr>
<tr>
<td>Germanium</td>
<td>68.07 kilograms</td>
</tr>
<tr>
<td>Palladium</td>
<td>1,264.01 troy ounces</td>
</tr>
<tr>
<td>Platinum</td>
<td>452.61 troy ounces</td>
</tr>
<tr>
<td>Rubber</td>
<td>125.138 long tons</td>
</tr>
</tbody>
</table>

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (30 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction. 

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is additional disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law, regard of the materials specified in such subsection. 

(e) TERMINATION OF DISPOSAL AUTHORITY.—The disposal authorized in subsection (a)(2) after the date on which the total amount of receipts specified in paragraph (c) of such subsection is achieved. 


SEC. 13103. DIRECT AUTHORIZATION TO SELL CERTAIN AGENTS—PREVENT GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR EPO KECK IN 1992. 

(a) DEFINITIONS.—For the purpose of this section— 

(1) the term "agency" means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President; 

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—(1) Section 4611 of the Internal Revenue Code of 1986 is amended to read as follows: 

"(e) APPLICATION OF TAX.—Paragraph (f) of section 9901 of the Internal Revenue Code of 1986 is amended to read as follows: 

"(f) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code, is amended to read as follows: 


SEC. 13104. FIVE-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES. 

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—Subsection (c)(3)(B) of section 6114A(b) of Public Law 105-185 is amended to read as follows: 

"(B) $649,000,000 during the five-fiscal year period ending on September 30, 1996, each agency shall be required to prepay the Government contributions which are due on or after the applicable effective date under paragraph (I), on behalf of— 

(i) individuals who are annuitants of the agency as of such effective date; and 

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors). 

(2) By inserting "1996" after "1996." 

(b) INCREASE OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this subsection shall apply after December 31, 1985, and before January 1, 1995. 

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.
(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS. WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out "7" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1910, to December 31, 1915</td>
<td>7</td>
</tr>
<tr>
<td>January 1, 1916, to December 31, 1917</td>
<td>7.25</td>
</tr>
<tr>
<td>January 1, 1918, to December 31, 1919</td>
<td>7.4</td>
</tr>
<tr>
<td>January 1, 1920, to December 31, 1921</td>
<td>7.5</td>
</tr>
<tr>
<td>January 1, 1922, to December 31, 2002</td>
<td>7</td>
</tr>
</tbody>
</table>

(B) in the matter relating to a Member or employee for Congressional employee service by striking out "7½" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1970, to December 31, 1975</td>
<td>7.25</td>
</tr>
<tr>
<td>January 1, 1976, to December 31, 1977</td>
<td>7.4</td>
</tr>
<tr>
<td>January 1, 1978, to December 31, 1979</td>
<td>7.5</td>
</tr>
<tr>
<td>January 1, 1980, to December 31, 2002</td>
<td>7</td>
</tr>
</tbody>
</table>

(C) in the matter relating to a Member for Member service by striking out "7" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1910, to December 31, 1915</td>
<td>7</td>
</tr>
<tr>
<td>January 1, 1916, to December 31, 1917</td>
<td>7.25</td>
</tr>
<tr>
<td>January 1, 1918, to December 31, 1919</td>
<td>7.4</td>
</tr>
<tr>
<td>January 1, 1920, to December 31, 1921</td>
<td>7.5</td>
</tr>
<tr>
<td>January 1, 1922, to December 31, 2002</td>
<td>7</td>
</tr>
</tbody>
</table>

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out "7½" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1915, to December 31, 1919</td>
<td>7.5</td>
</tr>
<tr>
<td>January 1, 1920, to December 31, 1924</td>
<td>7.75</td>
</tr>
<tr>
<td>January 1, 1925, to December 31, 1928</td>
<td>7.9</td>
</tr>
<tr>
<td>January 1, 1929, to December 31, 1932</td>
<td>8</td>
</tr>
<tr>
<td>January 1, 1933, to December 31, 2002</td>
<td>8.25</td>
</tr>
</tbody>
</table>

(E) in the matter relating to a bankruptcy judge by striking out "8" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 1, 1984, to December 31, 1995</td>
<td>8.25</td>
</tr>
</tbody>
</table>

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out "8" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1, 1988, to December 31, 1995</td>
<td>8.25</td>
</tr>
<tr>
<td>January 1, 1996, to December 31, 1997</td>
<td>8.4</td>
</tr>
<tr>
<td>January 1, 1998, to December 31, 2002</td>
<td>8</td>
</tr>
</tbody>
</table>

(G) in the matter relating to a United States magistrate by striking out "8" and inserting in lieu thereof the following:

<table>
<thead>
<tr>
<th>Date Range</th>
<th>Pay Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1, 1988, to December 31, 1995</td>
<td>8.25</td>
</tr>
<tr>
<td>January 1, 1996, to December 31, 1997</td>
<td>8.4</td>
</tr>
<tr>
<td>January 1, 1998, to December 31, 2002</td>
<td>8</td>
</tr>
</tbody>
</table>

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (3)."); and

(ii) by adding at the end thereof the following: "(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee."

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following: "(6) The percentage of basic pay under section 304 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent; and

(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent."
"(4) The percentage of the readjustment allowance, if any (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent;

(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.

(2) NOTIFICATION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8338 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee" each place it appears; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 415 of title 5, United States Code, is amended—

(A) by striking subsections (b) and (c); and

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(c) in subsection (g)(2) by striking out "Congressional employee".

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATE.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—The amendments made by subsection (a) shall apply only with respect to the computation of an annuity beginning on or after January 1, 1996.

(2) AGENCY CONTRIBUTIONS.—The amendments made by subsection (b) shall apply—

(A) to the computations and payments of annuities under CSRS and FERS for years of service performed on or after January 1, 1996; and

(B) to the computations and payments of annuities under CSRS and FERS for years of service performed on or after January 1, 1996.

(c) NOTIFICATION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.
ask a question. We have been waiting since late yesterday afternoon to receive a copy of the Finance Committee amendment.

Could the manager indicate when that might be available?

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

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

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

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

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

Mr. GRAHAM. To any attempt— The PRESIDENT pro tempore. The Senator does not have a right to the floor at this time.

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate resumed consideration of the bill.

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

The legislative clerk read as follows:

The bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.
it's significance. I am alerting the manager to my intention to protect the rights of those who have been waiting now for almost 18 hours to get a copy of this amendment. We have been denied that opportunity, and soon we will be asked to vote upon a stealth amendment which will quite likely be the most significant amendment on this most significant legislative enactment.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2978

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

Several Senators addressed the Chair.

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

Mr. DOMENICI. I am asking that it be put aside and disposed of and not considered.

The Senator is not ready—

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Reserving the right to object.

Several Senators addressed the Chair.

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

Mr. DOMENICI. Of course.

The PRESIDING OFFICER. The Senator from Nebraska.

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

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

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

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

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

We are ready to proceed with your amendment.

Mr. ROCKEFELLER addressed the Chair.

Mr. EXON. I appreciate that very much. Mr. FORD. Shall he not make a motion to withdraw the amendment?

The PRESIDING OFFICER. Is there objection to withdrawing?

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

The PRESIDING OFFICER. Is there objection to withdrawing 2978?

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

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

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

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

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

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

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

The Senator from Texas.

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

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

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

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

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

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

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

The PRESIDING OFFICER. Is there further debate?

The Senator from Rhode Island.

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

The PRESIDING OFFICER. All time has expired.

The majority leader.

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

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

Mr. DOLE. I thank the Chair.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 518 Leg.]
CONGRESSIONAL RECORD — SENATE

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

Mr. MOYNIHAN. I object. Mr. President.

Mr. DOLE. That is another amendment.

Mr. MOYNIHAN. I withdraw that objection.

The PRESIDING OFFICER. The question is on agreeing to the Domenici amendment. The amendment (No. 2980) was agreed to.

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Kansas.

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

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

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, we are prepared to accept the amendment without a roll call. If we want to speed up the process.

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

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

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. We yield back all time.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 94, nays 5, as follows: [Roll Call Vote No. 520 Leg.]

YEAS—94

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

Mr. MOYNIHAN. I object. Mr. President.

Mr. DOLE. That is another amendment.

Mr. MOYNIHAN. I withdraw that objection.

The PRESIDING OFFICER. The question is on agreeing to the Domenici amendment. The amendment (No. 2980) was agreed to.

Mr. JOHNSTON. Mr. President. I move to reconsider the vote.

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

AMENDMENT NO. 2981

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

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

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

The PRESIDING OFFICER. The Senator from Kansas.

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

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

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, we are prepared to accept the amendment without a roll call. If we want to speed up the process.

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

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

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. We yield back all time.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 94, nays 5, as follows: [Roll Call Vote No. 520 Leg.]

YEAS—94

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

Mr. MOYNIHAN. I object. Mr. President.

Mr. DOLE. That is another amendment.

Mr. MOYNIHAN. I withdraw that objection.

The PRESIDING OFFICER. The question is on agreeing to the Domenici amendment. The amendment (No. 2980) was agreed to.

Mr. JOHNSTON. Mr. President. I move to reconsider the vote.

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

AMENDMENT NO. 2981

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

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

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

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

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The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. We yield back all time.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 94, nays 5, as follows: [Roll Call Vote No. 520 Leg.]

YEAS—94
Mr. President, I yield 30 seconds of my time to the Senator from Minnesota.

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

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

Mr. President, last night I talked briefly about each of the four amendments I was going to offer separately. I will briefly about each of the four amendments I was going to offer separately.

I now ask unanimous consent that a statement elaborating on each amendment be printed in the Record.

So the amendment (No. 2881) was agreed to.

The PRESIDING OFFICER. The next amendment is Wallestone 2892. The days and nays have been ordered.

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

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

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Mr. President, last night I talked briefly about each of the four amendments I was going to offer separately. I will briefly about each of the four amendments I was going to offer separately.

I now ask unanimous consent that a statement elaborating on each tax loophole, and the reasons for its elimination, which this omnibus amendment proposed to be done, be printed in the RECORD.

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

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

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

This Republican budget package is radical, and it fails to meet a basic test of fairness that Americans expect us to apply in order to get to a balanced budget. One of its major failings that has been discussed is that it does almost nothing to eliminate the fantastically expensive tax loopholes that have been embedded in the code for years. And these tax preferences have been extended to one industry or type of investment over all others. These preferences distort economic decision-making, and because they are so expensive make it much harder for smaller families, who are struggling to make it these days, pay much higher income taxes than they otherwise would be able to.

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

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

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

Tax subsidies are heavily skewed to corporations and the relatively few people in the wealthiest 1 percent. While government benefits and services go in far larger proportions to the middle class and the poor. It is harder to eliminate tax breaks of those who have political clout, who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much, or on behalf of middle class folks, that you and I represent who receive Social Security or Medicare or Veterans benefits or student loans.

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Mr. President, this issue is complex, but in the end it seems to be really a choice between two fundamentally different philosophies. There is a philosophical difference about the basis on which the cost of energy should be distributed, and it is no longer possible to ignore this matter.

The oil and gas industry has for decades been enjoying a tax benefit that has not been available to comparable energy sources, or to any other industry for that matter. We need to consider this special treatment from the perspective of fairness, efficiency, and the need to promote environmental sustainability.

Many of these tax breaks are industry-specific, others were designed to encourage certain kinds of activities or investments, or to give a special status to entities. These arcane tax breaks are simply special rules that are designed to allow certain kinds of activities or investments, or to give a special status to entities.

As with many other energy subsidies, this subsidy encourages drilling in environmentally sensitive areas. It encourages drilling in areas that have been protected for years by the ravages of thoughtless oil and gas development. These arcane tax breaks are simply special rules that are designed to allow certain kinds of activities or investments, or to give a special status to entities. These arcane tax breaks are simply special rules that are designed to allow certain kinds of activities or investments, or to give a special status to entities.

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Reconciliation Act did scale back somewhat the benefits provided to eligible companies under the provision, but it failed to repeal the provision. And so now I think the time has come to repeal it outright, starting in 1996. That will put a stop to efforts by corporations to push their operations out of Puerto Rico into other U.S. Possessions to shelter profits and avoid paying their fair share of taxes.

One goal is to encourage economic development in U.S. possessions, primarily Puerto Rico, the Section 936 tax credit has done more in that respect than any other provision. The GAO's extensive 1993 report concluded that repeal of this provision will have long-lasting effects. It pointed out that the credits were misused by some of America's most profitable companies. While it has been narrowed considerably by the most egregious abuses addressed, it remains a fairly large loophole for expensive subsidy to a few special interests. That is unfair, Mr. President, especially when we consider all of the competing budget claims on these scarce federal funds. It is time to bring this to an end.

Over the past several decades, as I have mentioned a few times, some have tried and failed to close the Section 936 tax credit. Those regulations often use the increase in labor costs as a measure of double-taxation. As a result, they have not been able to tax the income derived from intangible assets. Those companies that invest in Puerto Rico. The GAO's extensive 1993 report concluded that the credits are misused by some of America's most profitable companies. While it has been narrowed considerably by the most egregious abuses addressed, it remains a fairly large loophole for expensive subsidy to a few special interests. That is unfair, Mr. President, especially when we consider all of the competing budget claims on these scarce federal funds. It is time to bring this to an end.

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Mr. President. I have already spent some time here on the Senate floor in an effort to put a number of these issues on the floor. These efforts are a recognition that we must reduce the federal budget deficit in a way that is fair, responsible, and that requires shared sacrifice. Corporate welfare loopholes like this are often astronomical. Mr. President. continuing this credit for years while trying to balance the budget by 2001 is bad public policy. It is bad tax policy. And it is bad budget policy. It is no longer possible to stand, especially in the current budget climate. I urge my colleagues to support this amendment. I yield the floor.

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October 27, 1995

CONGRESSIONAL RECORD—SENATE
S 15985

who work in the U.S. are being forced to pay more in taxes to make up the difference. Clearly, the AMT is a tax loophole that raises U.S. taxes.

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

When it first came on the books in 1986, the Exclusion was said to help support U.S. citizens living abroad that was promoting trade between the U.S. and foreign countries. However, it has been a constant tension between those fighting for tax equity because it was a tax break for U.S. citizens living abroad that was promoting trade between the U.S. and foreign countries. However, it has been a constant tension between those fighting for tax equity and those who believe that the loophole actually benefits U.S. trade relations. When the loophole was first tried, at times, to expand the loophole, i.e., raise the Exclusion above the current $70,000.

Clearly, in deciding whether or not to eliminate a special tax break, we need to balance the good effects against the bad. In this case, the elimination of the tax loophole abroad in foreign countries would make up the difference. When taxpayers in my State of Minnesota file their returns every year, they are not allowed to take the $70,000 of their income. So why do we let Americans living abroad to take advantage of this loophole?

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the form of new tax breaks for wealthy individuals and big business. Corporations and wealthy families could not escape this fair share of the tax burden through tax shelters. In this day of severe budget cuts, when we are all asked to tighten our belts, we should be taxing most wealthy of our country from that obligation.

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

During the debate on the balanced budget amendment, Republicans repeated over and over again that we need to balance the budget for a better future for our children and grandchildren. But now that we have before us the actual plan for balancing the budget (which actually will do no such thing), we can see that it is the poor who are being asked to sacrifice at least as much as regular working families.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mrs. FEINSTEIN] is necessarily absent. The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 25, nays 73, as follows:
[Roll Call Vote No. 52i Leg.]

YEAS—25

Inouye.............Murray

Bricker............Perdue

Kerry..............Reid

Kohl..............Simon

Esenberg..........Snowe

Feingold...........Wells Fargo

Harkin.............Wells Fargo

Holllings........Mynihan

NAYS—73

Abraham............Baucus

Bennett............Biden

Bingaman...........Bond

Breaux.............Brown

Brown..............Burns

Byrd..............Burns

Campbell...........Chafee

Coates............Coles

Cochran...........Corker

Cohen..............Coverdell

D’Amato...........Daschle

DeWine............Dole

Domenici........Dole

Feinstein........Feinstein

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

Then we come to that omen group, that nebulous group that is called third tier. We have invented that term. But that means all the other amendments that anybody would like to offer. We ought mention that we have been waiting for a list, and we do not have a list. But the minority leader is working to try to get that list.

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

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

I yield now to Senator EXON.

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

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

I would simply say that my best guess at the present time is that we have, as of now, a minimum—I emphasize the word "minimum"—on both sides of the aisle of somewhere around 50 individual separate amendments to be considered. Multiply that out. Even at a limited 10-minute timeframe, you can see we are talking about a minimum of 8 hours of steady voting, which should give everyone pause for consideration if they have any visions of leaving sometime this evening for obligations that they have elsewhere.

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

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

Mr. DASCHLE addressed the Chair. The PRESIDING OFFICER. The minority leader.

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

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

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

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

I thank the Chair.

Mr. GRAHAM addressed the Chair.

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

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

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

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

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

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

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

The PRESIDING OFFICER. The President's amendment is in order. Without objection, it is so ordered.

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

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

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

There are 30 seconds to each side.

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

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

The Chair cannot hear the Senator from Arkansas. The Senator from Arkansas is recognized for 30 seconds.

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

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

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

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

The PRESIDING OFFICER. All time is yielded.

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

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

The PRESIDING OFFICER. Is there objection to additional time?

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

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

Mr. DOMENICI. Yes. That is right.

Mr. PRYOR. I thank the Chair.

Mr. DOMENICI. Senators will see it shortly.

The PRESIDING OFFICER. Is all time yielded back?

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

The bill clerk called the roll.
The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 522 Leg.]

YEAS—51

Akaka  Fong  Levin
Baucus  Feingold  Lieberman
Biden  Ford  Mikulski
Bingaman  Graham  Moynihan
Boxer  Graf  Moynihan
Bradley  Gregg  Murray
Breaux  Harkin  Nunn
Bryan  Heftin  Pell
Bumpers  Hollings  Pryor
Byrd  Inouye  Reed
Cohen  Johnston  Robb
Cox  Kasten  Rockefeller
Daschle  Kerrey  Sarbanes
DeWine  Kerry  Simon
Durbin  Kyl  Specter
Dorgan  Lautenberg  Specter
Exon  Leahy  Wellstone

NAYS—48

Abramoff  Frist  Main
Bennett  Gramm  Heinrich
Brown  Grains  Moakowski
Bunns  Hatch  Pressler
Campbell  Helms  Roberts
Chafee  Helms  Sessions
Coats  Hutchison  Shelby
Cooney  Isakson  Simpson
Coverdell  Jeffords  Smith
Craig  Kasellbaum  Stevens
D'Amato  Kassebaum  Thune
Dole  Kyl  Thompson
Domenici  Lott  Thurmond
Fischetti  Lugar  Warner

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

Mr. EXON. I move to reconsider the vote.

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

The motion to lay this on the table was agreed to.

AMENDMENT NO. 2984

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senate from Nebraska.

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

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

Without objection, it is so ordered.

The Senator's request is granted.

The Senator from Nebraska.

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

The PRESIDING OFFICER. The amendment (No. 2984) was rejected.

Mr. DOMENICI. Mr. President, this amendment is cosponsored by Senators CONRAD, ROBB, and KERREY. It eliminates the tax cut, reduces the CPI 0.5 percent, which is less than the experts have recommended. That means, for the median person on Social Security, a $3 billion bill. For that, you get more than $100 billion in Medicare, more than $100 billion in Medicaid, $36 billion in welfare, and you eliminate the cuts in education. It has bipartisan support in the House, and I hope it can have that here in the Senate.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 2984, as modified by the yeas and nays that have been ordered. The clerk will call the roll. The legislative clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

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

[Rollcall Vote No. 523 Leg.]

YEAS—19

Akaka  Bradley  Johnson  Pell
Baucus  Breaux  Kerrey  Pryor
Bingaman  Conrad  Leahy  Robb
Brown  Dodd  Lieberman
Domenici  Graham  Nunn

NAYS—80

Abramoff  Ashcroft  Frist  Feingold  Maccack
Baucus  Bayh  Ford  McCain
Bingaman  Biden  Gorton  Mikulski
Bingaman  Brown  Gramm  Mushro
Bingaman  Bryan  Harkin  Nickles
Bumpers  Burns  Hatfield  Nickles
Byrd  Campbell  Hollings  Rockefeller
Coats  Coburn  Hutchison  Rockefeller
Cochran  Cochran  Isakson  Rockefeller
Cohen  Garamendi  Inouye  Rockefeller
Coverdell  Craig  Jeffords  Smith
D'Amato  DeWine  Kasellbaum  Specter
Daschle  Dever  Kennedy  Stevens
DeWine  DeWine  Kerry  Thomas
Dole  Dole  Kyl  Thomas
Dorgan  Dorgan  Kyel  Thurmond
Exon  Exon  Lott  Wellstone

So the amendment (No. 2984) was rejected.

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

Mr. DOLE. I move to lay that motion on the table.
CONGRESSIONAL RECORD — SENATE

Mr. KYL. Mr. President, on rollcall vote 518, I voted "no." My intention was to vote "aye." I ask unanimous consent that I be permitted to change my vote, which in no way would change the outcome of the vote.
(The foregoing tally has been changed to reflect the above order.)

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

The PRESIDING OFFICER. Is the Senator using leader's time?
Mr. DOLE. I will use my leader's time.

We are now ready to proceed to the third tier. So we have some order and know what we are voting on. I will request that the two managers each have 30 seconds to explain their amendment, or maybe they do not need explanation. The votes on the pending amendments will be 1½ minutes in length.

The PRESIDING OFFICER. Is there objection?

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

Mr. DOLE. The last item?

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

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

The PRESIDING OFFICER. There is no time for debate.

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

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

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

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

Mr. DOLE. As quickly as we can.

The PRESIDING OFFICER. Is there further debate?

Is there any objection to the request of the Senator?

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

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

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

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

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

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, using my leader time, all we have is 7½ minutes, so I am asking we have 30 seconds, for the managers to have 30 seconds. I do not include the 7½.

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

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

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

Mr. GRAHAM. Yes, there is objection.

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

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

The PRESIDING OFFICER. Is there an amendment to present?

The Senator from Pennsylvania.

AMENDMENT NO. 2985

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

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2985

Mr. DOLE. Mr. President, I ask for 30 seconds on each side before each amendment.

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

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objectation is heard. The question is on the amendment. All in favor say aye.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The motion to lay on the table was agreed to.
point is that, if an objection is made, there will be no time.

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

Is there an objection? Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

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

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this bill cuts out $14.5 billion from disproportionate share payments, and indirect medical education hospitals and the major teaching institutions. And this amendment reinstates $4.5 billion.

I yield back the remainder of my time.

The PRESIDING OFFICER. Time is yielded back.

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

Mr. DOMENICI. In opposition? The PRESIDING OFFICER. In opposition to the amendment?

Mr. ROCKEFELLER. I am speaking to the amendment. I have no time. The manager has to designate the sponsor.

Mr. DOMENICI. I send Mr. D'AMATO's amendment to the Senate Journal. I send Mr. D'AMATO's amendment to the Senate Journal.
The PRESIDING OFFICER. Without objection, it is so ordered. The text of the amendment is printed in the Congressional Record under "Amendments Submitted."

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

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

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 2994

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Did the Senator from New Mexico hear the state what the amendment is?

Senator from Nebraska.

Mr. BRADLEY reserves the right to object.

The PRESIDING OFFICER. The bill is open to amendment.

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

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

The PRESIDING OFFICER. The amendment is at the desk.

Is the Senator from Montana calling up his amendment?

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

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

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

Mr. DOMENICI. OK, let us proceed.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

On page 272, strike line 21 and all that follows through page 273, line 22.

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

The PRESIDING OFFICER. Thirty seconds on each side.

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

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

The PRESIDING OFFICER. The Senator from New Mexico.

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

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I move to table.

The PRESIDING OFFICER. The time yielded back?

Mr. DOMENICI. Yes. we yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOLE. Move to table.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 252 (Leg.)]

YEAS—51

Abraham, Abraham  Faircloth, Kyl
Akaka,  Frist, Lugar
Ashcroft, Bennett, Goree, Mack
Bond, Gramm, McCain
Breaux, Gramm, McCain
Brown, Greene, Mor��kowski
Campbell, Gregg, Nicklas
Campbell, Hatch, Presler
Coats, Hatch, Presler
Cochran, Heflin, Shelby
Coverdale, Helms, Smith
Craig, Hutchison, Smitherman
D'Amato, Inhofe, Stevens
DeVine, Inouye, Thomas
Dole, Johnston, Thurmond
Domenici, Kempthorne, Warner

NAYS—48

Baucus, Feinseil, Moseley-Braun
Biden, Glenn, Moynihan
Bingaman, Graham, Murray
Boxer, Harkin, Nunn
Brady, Hollings, Pell
Bryan, Jeffords, Pryor
Burns, Kasellbaum, Robb
Byrd, Kennedy, Rockefeller
Chafee, Kerry, Rockefeller
Cohan, Kennedy, Roth
Conrad, Kehl, Sarbanes
Daschle, Lautenberg, Simon
Dodd, Leahy, Snowe
Dorgan, Levin, Specter
Econ, Lieberman, Thompson
Fink, Mikulski, Wellstone

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

Mr. EXON. Mr. President. I move to reconsider the vote.
Mr. DOMENICI. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to amendment.

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

Mr. BAUCUS addressed the Chair.

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

Mr. DOMENICI. Mr. President. Let me say to Senators who contemplate offering amendments that unless we have seen a copy of the amendment before you offer it, we are going to offer a second-degree amendment, because there is no way to state the case if we have never seen it. We have three now that we have seen that are the next three. I never seen it. We have three now that is no way to state the case if we have ond-degree amendment, because there

On page 1470, line 7, strike "$100,000" and insert "$50,000".

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

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

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

For taxable years the applicable dollar beginning in cal- amount is—

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>$6,700</td>
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<tr>
<td>1996</td>
<td>$7,050</td>
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<tr>
<td>1997</td>
<td>$7,400</td>
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<td>1998</td>
<td>$7,850</td>
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<td>2000</td>
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<td>2003</td>
<td>$9,000</td>
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<tr>
<td>2004</td>
<td>$9,400</td>
</tr>
<tr>
<td>2005 and thereafter</td>
<td>$10,800</td>
</tr>
</tbody>
</table>

On page 1469, strike lines 2 through 5, and insert the following:

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

On page 1497, beginning on line 20, strike all through line 12.

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

On page 1867, after line 20, insert the follow-

SEC. 1279. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

The amendment is as follows:

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS addressed the Chair.

Mr. BAUCUS. Mr. President. I send an amendment with a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>$6,700</td>
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<td>1997</td>
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<td>$9,400</td>
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<tr>
<td>2005 and thereafter</td>
<td>$10,800</td>
</tr>
</tbody>
</table>

And there’s another thing. Opening the refuge to oil drilling is yet another example of public lands policies that favor special interests over the interests of ordinary American families. It opens the Refuge up to drilling at the expense of our children and grandchildren and the Native people who live near the refuge and depend on the land to sustain their way of life. In addition, the refuge supports a spectacular array of other wildlife, including polar bears, grizzly bears, wolves, and snow geese.

OMB has stated that "exploration and development activities would bring physical disturbances to the area, un- likely to increase revenues. A reduction in Federal revenues will decline to about $170 million."

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

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

Let me explain why Members should support the amendment.

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

The environmental concerns have been raised and found wanting. All of the research done on oil development on the North Slope proves that such development can occur without having an adverse effect on wildlife. As a matter of fact, the caribou herds have not only survived during the nearly 30 years of oil development in the Prudhoe Bay area, they have shown strong growth. Some people predicted that the caribou would be disturbed by the development, and particularly the pipeline. They argued that the caribou would not cross it and therefore the range of the herd would be cut in half, they would not be able to get to their calving areas and the herd would suffer. Because of the concern over this possibility, the oil companies buried portions of the pipeline at great expense and effort. This has proven to have been a waste of time and money. The caribou have never used the pipeline, they did not even ignore it. The fact it they use it. Biologists have found that caribou enjoy the heat that the pipeline provides during the cold winter months and that they can find taking advantage of the shade that it provides during the summer on this treeless plain. Some predicted that caribou would be trapped by the pipeline, and that predators would change their behavior to take advantage of the pipeline. But this has not happened either. There has been very little effect on the wolves or bears in the area. Some said that waterfowl and other birds such as hawks and falcons would avoid the area because of the development. Again, this has not happened. Each year thousands of waterfowl and other birds use the area. In fact, there has never been a instance of what could even approach being called serious environmental damage in the North Slope oil fields.
Mr. LEAHY. Mr. President, America knows that drilling the Arctic National Wildlife Refuge to balance the budget is wrong. We understand and agree that the basic concern for the environment is all you need to come to this conclusion. Now all we have to do is convince the Senate of the right thing to do. I am disappointed at the difficulty of what should be a simple truth.

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

I wonder how many people realize that outside this chamber, 500 years ago, the first Americans could hunt bison and elk in the open forests on the banks of the Potomac. I wonder how many people remember that outside this building passenger pigeons used to roost in American chestnut trees, sometimes in flocks of thousands. If we could only turn back the clock and return to an era when the passenger pigeon was a common sight, the American chestnut has been wiped out in this region by an exotic disease. The first Americans would not recognize this place.

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

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

First of all, drilling for oil in Alaska is just a tiny drop in the deficit bucket. The leasing revenues will contribute only one-fifth of 1 percent of the budget gap. provided the residents of Alaska do not enter a recent share of the royalties. Even the $1.3 billion revenue estimate is flawed because it assumes we will make about $30 a barrel when the rest of the world is actually paying only $10. Add to that the fact that the production estimates are outdated and it is clear that we are selling the orchard for an apple.

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

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

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

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

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

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

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

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

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

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

Some would have us believe that this is just an economic issue. I would disagree based on the hundreds of letters and phone calls I have received from Marylanders who are concerned about protecting this land, the land we have heard from the native people, both in the United States and Canada. whose culture and livelihoods depend on the caribou that breed within the confines of the refuge. Opening this precious land to oil drilling will wipe these timeless cultures out.

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

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

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

As a lead sponsor of S. 428, the bill that designates the coastal plain of the Arctic National Wildlife Refuge, there is a provision in the budget that provides for oil and gas lease sales in this sanctuary. Located in the northeastern corner of Alaska, this unique piece of our national heritage is bordered on the north by the Arctic Ocean and Beaufort Sea, and on the south by the snow-capped Brooks Range.

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

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

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

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

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

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

Addressing my second concern—that the potential oil and gas leasing in the coastal plain of ANWR will not result in such a significant amount of money that it could not be found elsewhere—let me say that the estimated revenue is only two tenths of 1 percent of the total savings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As I have said in the past, I take seriously the national obligation embodied in the Alaska lands bill to ensure that these remote 19 million acres continue to achieve their purpose of providing a refuge for wildlife. There is no other region in America or in the world where caribou, polar bears, and wild geese flourish as they do in the Arctic National Wildlife Refuge. And, as we know from both history and recent scientific study, once one component of an ecosystem is adversely affected, then the entire system can become affected by a chain reaction.

Declining populations of polar bears, birds, and caribou, and the animals and Native American communities that depend on them, is a valid fear. A recent article in the Anchorage Daily News reports that the Central Arctic caribou herd that inhabits Prudhoe Bay has suffered a 23 percent reduction from 23,400 animals in 1985 to 18,000 animals in 3 years. Although it is difficult to determine the exact reason for this marked decline, the part of the herd that ranges near the oil drilling activity has experienced almost all of the losses.

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

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

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

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

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

Even more exciting is the fact that if the proposal to have a "49 State Fuel"—in other words, a nationwide RFG standard—is adopted, U.S. oil requirements could be reduced by over 1.5 million barrels per day, or more than 40 percent of our daily gasoline demand. At an average $20 per barrel, this would mean that nearly $1 billion annually would remain in the United States rather than be exported to foreign oil producers.

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

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

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

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

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

For most Americans, who will never have a chance to see the Arctic coastal plain and witness the thundering herds of caribou in their annual migration, or watch a wolf run down a ptarmigan, the simple knowledge that this special and endangered environment remains is a tribute to our courage and wisdom. Perhaps the personal sacrifice of my Brother Robert, who lost his life in the protection of our natural heritage, is the most significant means to a better understanding of the simple knowledge that this special land and the lives of the Gwich'in people have relied on the Arctic National Wildlife Refuge is more profound than the concerns of big industry.

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

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

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

While proponents of drilling in the Arctic Refuge will tell you that the caribou are not harmed by drilling, an October 21, 1995 article in the Anchorage Daily News reports that new information shows a sharp decline in the number of caribou in the Central Arctic caribou herd. While nobody knows exactly what caused this decline, most of it has occurred in the part of the herd that lives near the oil and gas drilling. Despite the effects oil drilling would have on the animals, there are those who continue to push for oil drilling without an update environmental impact statement (EIS) as required by current law. An EIS has not been done in the area since 1987. Just a month ago, we were in a position to rely on those porcupine caribou for thousands of years to provide their food and meet their spiritual needs. I have heard them speak very eloquently and directly about what oil drilling in the Arctic Refuge would do to their way of life. People like the Gwich'in want to save the environment. But they are not the big oil companies. They do not have the money. They do not have the power. They are not the lawyers here every day. In today's Washington environment, that seems to mean that their concerns are less important than the concerns of big industry.

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

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

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

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

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

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

First, leasing the Refuge does not result in a significant return of money to the Federal Treasury. If the dubious assumptions of the Budget Committee prove correct, the leasing revenues would be a mere two-tenths of 1 percent of our budget gap. If we lease this unique Arctic wilderness that has been called America’s Serengeti, it would be purchasing the right to allow some companies and the most critical for wildlife. The coastal plain is an integral part of the only conservation area in North America that protects a full spectrum of Arctic and sub-Arctic ecosystems. While only 13,000 acres would be affected, the wilderness in the entire coastal plain would be impacted by oil development. The massive industrial complex would not be in a compact area, but would sprawl over hundreds of square miles in a network of roads, pipelines, airports, and processing plants.

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 43, nays 55. As follows:

[Vote No. 126 Leg.]

YEAS—43

Alaska

Fitzgerald

Braun

Biden

Bingaman

Buxer

Bradley

Breaux

Bryan

Bumpers

Burks

Bouck

Byrd

DeChellis

Dole

Domenici

Frist

McCain

McCaskill

Grassley

GREG

Hatch

Harkin

Hellings

Inouye

Johnson

Kennedy

Kerrey

Kohl

Lautenberg

Leahy

Levin

Mikulski

Mossely-Braun

Moynihan

Murray

Nunn

Pryor

Reid

Robb

Rockefeller

Barbour

Simon

Wellstone

Abraham

Ashcroft

Bennett

Brown

Bums

Campbell

Chafee

Coate

Cochran

Cohen

Collins

Craig

D'Amato

Dole

Domenici

Faichold

Frakt

Mack

Nichols

Pell

Presler

Reh

Santorum

Shelby

Simmons

Smith

Snowe

Specter

Stevens

Thomas

Thompson

Thurmond

Warner

NAYS—56

Akaka

Ashcroft

Bennett

Brown

Bums

Campbell

Chafee

Coate

Cochran

Cohen

Collins

Craig

D'Amato

Dole

Domenici

Faichold

Frakt

Mack

McCain

McCaskill

Grassley

GREG

Hatch

Harkin

Hellings

Inouye

Johnson

Kennedy

Kerrey

Kohl

Lautenberg

Leahy

Mikulski

Mossely-Braun

Moynihan

Murray

Nunn

Pryor

Reid

Robb

Rockefeller

Barbour

Simon

Wellstone

Abraham

Ashcroft

Bennett

Brown

Bums

Campbell

Chafee

Coate

Cochran

Cohen

Collins

Craig

D'Amato

Dole

Domenici

Faichold

Frakt

Mack

Nichols

Pell

Presler

Reh

Santorum

Shelby

Simmons

Smith

Snowe

Specter

Stevens

Thomas

Thompson

Thurmond

Warner

The PRESIDING OFFICER. On this vote, the ayes are 43, the nays are 55. By a vote of the Senate, the amendment is rejected. By a vote of 43 to 55, the amendment is rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.
The assistant legislative clerk proceeded to call.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2995

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment?

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

The amendment is as follows:

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

"(d) RESTRICTION ON PUNITIVE DAMAGES: NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(3) to punitive damages shall not apply to punitive damages awarded in a civil action—" (1) which is a wrongful death action, and (2) with respect to which applicable State law would be fully taxable by the Internal Revenue Service. For this reason I see the tax effect of the current provision as unfair to those Alabama victims and their families and the amendment as an equitable solution.

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

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

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

Mr. EXON. Mr. President, we have checked. We have found no objections to the amendment. We are not going to offer further amendment.

Mr. DOMENICI. Mr. President, I understand the amendment before us does nothing to prohibit the payment of punitive damages. All we are saying is what is necessary for the protection of our patients, the people I represent.

The PRESIDING OFFICER. The amendment (No. 2995) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The amendment to the table was agreed to.

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

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

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.
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relief from the floor and perhaps getting more of the amendments prepared so we can know what we are doing.

The PRESIDING OFFICER. That will be the order.

Mr. DOMENICI. I thank the Chair.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yea 52, nays 47, as follows: [Roll Call Vote No. 527 Leg.]

YEAS—52

Abraham         .................................  Gorton         .................................
Ashcroft        ................................  Grassley        ................................
Benett           ................................  Gregg           ................................
Bond             .................................  Brown           .................................
Burns            ................................  Campbell        ................................
Chafee           .................................  Coats           .................................
Coats            .................................  Cox             .................................
Coverdell        .................................  Craig           ................................
D'Amato          ................................  Keimpforshe  ................................
DeWine           ................................  Kyl             ................................
Dole             ................................  Lott           .................................
Domenici         ................................  Lugar           .................................
Faircloth        ................................  Mack           .................................
First            ................................  McCain         .................................

NAYS—47

Akaka            .................................  Baucus          .................................
Baucus           ................................  Biden           .................................
Bingaman        .................................  Binger         .................................
Boxer            ................................  Bradley       .................................
Bradley         .................................  Breux           ................................
Byrd             ................................  Bryan           ................................
Byrd            .................................  Bryan          .................................
Byun             ................................  Byrd           .................................
Conrad           ................................  Cohen         .................................
Daschle          ................................  Conrad        .................................
Dodd             ................................  Doles          .................................
Dorgan           ................................  Dorgan        .................................
Eiken            ................................  Eiken         .................................

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

RECESS

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

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

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

Thereupon, the Senate, at 12:33 p.m., recessed until the hour of 1:20 p.m.: whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMM).

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

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

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

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

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

Mr. KENNEDY. Mr. President, the reconciliation bill raises the Medicare age for eligibility from 65 to 62.

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

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

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

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

Mr. KENNEDY addressed the Chair.

Mr. DOMENICI. He has prevailed.

Mr. KENNEDY. I just say, if we are going to send something to the President, it is not at the desk. The Senator does not have any time.

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

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

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

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

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

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

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

Mr. KENNEDY addressed the Chair.

Mr. DOMENICI. He has prevailed.

Mr. KENNEDY. I just say, if we are going to send something to the President, it is not at the desk. The Senator does not have any time.

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

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

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

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

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

Mr. KENNEDY. I thank the Senator.

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

Mr. KENNEDY. Mr. President, the Social Security change enacted in 1983, it has significant differences. Individuals affected by the Social Security change had a minimum of 20 years to adjust their retirement plans, while individuals affected by this change have only 7 years. Social Security change continued to allow individuals to receive benefits at 62.

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

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

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

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

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

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

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

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

Mr. KENNEDY addressed the Chair.

Mr. DOMENICI. He has prevailed.

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

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

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

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senator have an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

Mr. KENNEDY. Mr. President, the Social Security change continued to allow individuals to receive benefits at age 62, the age of early retirement, and age 65, the normal retirement age although at reduced levels.

Under this proposal, no Medicare benefits at all will be provided until the individual is 67. The provision breaks faith with American workers who paid into the Medicare system in the expectation they will be provided health security at the age of 65 and will leave millions of senior citizens without health insurance coverage.

Mr. DOMENICI. Mr. President, I hope—

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I hope for purposes of management that Senators on our side would leave it up to one of us, either the leader or I, in terms of asking
that people be recognized or granted time. I understand the Senator, but I hope in the future the Senator will leave that up to us. He has prevailed. We do not have the intention of stopping him. So I think that is over and we yield back any time we might have had on the point of order. It has already been granted.

The next amendment, I understand, is on our record by Senator COCHRAN.

AMENDMENT NO. 3004

(Purpose: To require the Secretary of Agriculture to establish a special marketing order to equalize returns on all milk used to produce class IV final products, to consent to the Northeast Interstate Dairy Compact, and to require the Secretary to carry out an agricultural competitiveness initiative)

Mr. COCHRAN addressed the Chair. The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I have an amendment at the desk. The assistant legislative clerk read the following into today's Record under "Amendments Submitted."

Mr. COCHRAN. Mr. President, this amendment helps farmers and markets adjust to the changes in Federal dairy policy in this bill. It does so by creating an export class for dairy products and establishing a farmer-financed mechanism to boost exports. It saves money and provides for research to make our products more competitive.

It will also grant the consent of Congress to the Northeast Interstate Dairy Compact, which is supported by all the Governors and legislatures in New England.

I urge Senators to support the amendment.

The PRESIDING OFFICER. The Senator’s 30 seconds has expired.

Mr. JEFFORDS. Mr. President, I join my colleagues Senator COCHRAN, Senator LEAHY, Senator GORTON, Senator COHEN, and Senator SNOWE in supporting the creation of an export class for dairy products, and granting the consent of Congress to the Northeast Interstate Dairy Compact. This amendment is vital to the future of the New England dairy industry and the national dairy industry as a whole.

Mr. President, the Senate reconciliation bill cuts the cost of the dairy program by 49 percent over the next 7 years. This comes on top of a reduction of 89 percent in the last decade. While the dairy industry is willing to accept some cuts, they are already under pressure to cut, the industry has already pulled its load. As it stands, this bill does not address the critical need to increase sales of butter and nonfat dry milk in the world market.

As the support price for butter and nonfat dry milk is eliminated, their prices will fall and cause a glut of those products. This surplus will either be cleared on the world market at a very reduced price, or be converted into cheese. In either case, this will cause a substantial reduction in the return to dairy farmers and manufacturers of these products. This amendment will expand U.S. dairy markets by providing a way for all producers to share the cost of moving those products to the export market. The compact will help to bolster U.S. dairy products through the class IV export program by $230 million. This amendment will help farmers and taxpayers—by ensuring dairy products will be exported instead of being purchased by the Government.

This amendment will also grant consent to the Northeast Interstate Dairy Compact, an agreement among the six New England States to create a commission that will have the authority to oversee the pricing for fluid milk produced in the New England region. The compact will not affect milk prices outside the compact region. In fact, it will act as a useful pilot project for other regions, and is strongly supported by many groups and individuals across the country.

Mr. President, the New England States have joined together to do what many States do already on their own. If America had grown from west to east, I would not be standing here because New England would likely be one large State and would not have to ask for consent of Congress.

All six States’ Governors, Republican and Democratic, and their legislatures strongly support this amendment. On vote after vote this year we have acted to give more responsibility back to the States. Here is an opportunity for the Senate to do just that—in precisely the manner the Founders laid out in the Constitution.

Mr. President, the National Milk Producers Federation strongly supports this amendment as well as Mid-America, AMPI, Darigold, Milk Marketing Inc., and many other farmer cooperatives and dairy farmers from throughout the country. Supporting it is an opportunity to vote for State’s rights, and to vote for dairy farmers and to vote for our taxpayers. I urge my colleagues to support our amendment.

Mr. GORTON. Mr. President, I join my colleagues, Senator JEFFORDS, Senator COHEN, Senator SNOWE, and Senator LEAHY, as a cosponsor of this amendment.

Mr. President, the Senate Agriculture Committee has eliminated dairy price support purchases for butter and nonfat dry milk, and retains such purchases for cheese. The dairy farmers in my State support this provision, but only if a farmer funded class IV export program is established. The Agriculture Committee failed to add this provision of the price support program for butter and nonfat dry milk to the world market. Our amendment addresses this issue and according to CBO will save an additional $233 million in the next 7 years. These savings are in addition to $1 billion, the Government will save during the same 7 years by the elimination of dairy support for butter and nonfat dry milk.

This farm-funded class IV export program has the support of many, including: Darigold—80 percent of all Washington State producers, National Milk Producers Federation, Mid-America Dairymen. Milk Marketing Inc., AMPI, American Farm Bureau, Kansas Dairy Producers Association, NE Council of Farmer Cooperatives, Michigan Milk Producers Association, Florida Dairy Farmers Association, Dairylyfe Cooperatives, United Dairymen Association, Western Dairy Cooperative, a legion of other farmer cooperatives and dairy farmers across the country.

In closing, Mr. President, I urge my colleagues to vote in favor of this amendment.

Ms. SNOWE. Mr. President, I am pleased to be a co-sponsor of the amendment offered by the gentleman from Vermont, and I rise in strong support of the amendment.

Family dairy farms are facing hard times across the country, and this amendment is designed to assist these farmers while protecting the interests of the taxpayers and consumers.

This amendment does two things. First, it creates a class IV pool for nonfat dry milk and butter. This pool will help to offset the financial impact on farmers of the reconciliation of the class IV proposal. It is a logical back-up program for these two products. The new pool would be GATT-legal, allowing a greater volume of U.S. butter and nonfat dry milk to be exported than would be the case if we do not create the new pool. In short, the class IV pool will help farmers maintain their incomes without increasing Federal expenditures.

Mr. President, the second provision of the amendment provides the consent of the Congress to the Northeast Interstate Dairy Compact. Like the class IV proposal, the compact is designed to help family dairy farmers survive in a very difficult market environment. But unlike the class IV proposal, the compact does not involve the Federal Government. It represents a regional solution to the regional problem, and the Federal Government need only give its assent and then step out of the way.

Today, New England is practically bleeding dairy farms. In Maine, for instance, we have lost more than 200 farms since 1988, and this number would have been far higher if Maine
had not instituted a dairy vendor’s fee to help stabilize farm income. Unfortunately, that vendor’s fee has been invalidated by a Federal court, and farmers are exceedingly vulnerable once again.

The decline in New England’s dairy farms can be attributed to low and volatile dairy prices under the Federal new program. The Northeast Interstate Dairy Compact option does not reflect the costs of production in the region. Because New England farmers sell much of their milk in the fluid milk market, they face substantially higher costs to get their milk to the plant, and they do not have access to subsidized electricity like farmers in some other parts of the country. Consequently, New England’s dairy farmers receive some of the lowest mailbox prices of any dairy farmers in the country.

In response to this farm crisis, the six New England States negotiated an interstate compact in 1993 that allows them to add, if they choose, an additional producer milk price to milk that is sold to external processors. With very few exceptions, it affects only the consumers, farmers, and dairy processors of New England. The compact applies only to fluid, or class I, milk, and 97 percent of the fluid milk consumed in New England is processed by New England-based processors.

Approximately 75 percent of the milk processed by these processors comes from New England farmers. The remaining 25 percent of New York farmers would receive the same prices for their milk under the compact as farmers in New England.

As the compact only affects the participating States, the sponsors of the amendment have included explicit assurances to remove any doubt. These assurances further clarify that the compact only applies to class I fluid milk, that no new States can join the compact without the formal approval of both Houses of Congress, that out-of-region farmers who sell milk in the compact region will get the same price as New England farmers, and that the compact commission will take active measures to prevent increases in production.

Mr. President, the Jeffords amendment was not concocted in a protectionist, pro-States’ rights. It will help to ensure that good farmers have a reasonable chance to stay in business, but at less cost to the Federal Government. I urge my colleagues to support the amendment.

Mr. FEINGOLD. Mr. President. I rise in strong opposition to the amendment offered by Senator COCHRAN to grant the consent of Congress to the North-East Interstate Dairy Compact and to create a class IV pricing system for milk used to make butter or powder.

Both of those amendments would take dairy policy in the opposite direction in which congressional reformers are attempting to take all agricultural policy—this amendment provides more market intervention, more regulation, and more inequity.

It is unfortunate that the major changes that this amendment makes and the enormous precedent that it sets will not be fully debated by this Chamber, but I understand that few Members of this Chamber will have an opportunity to actually learn and understand just what it is they are voting on. I am also certain that this amendment will be approved.

This amendment is the Jeffords amendment is profarmer, protaxpayer, and proprice control. It would allow one region of the country to increase and expand exports. I have 30,000 dairy farmers in Wisconsin that want to expand exports and are planning to do so. But Wisconsin dairy producers oppose this proposal.

Why? Because it forces them to pay a tax to support producers on the west coast. In fact, producers throughout the country will likely pay a minimum of 15 cents per hundredweight to help producers on the west coast continue to overproduce milk powder which will no longer be supported by the Federal Government which is no longer deemed necessary. I would urge my colleagues to look with a skeptical eye on projections that this amendment will greatly enhance producer revenues to compensate for a producer tax that all producers will pay. If such projections were realistic, the thousands of milk producers in the upper Midwest—the heart of this Nation’s dairy country—would be embarrassed by the domestic market.

Mr. President, this amendment provides help to producers in eight States—the six Northeastern States that will benefit from the Compact. Wisconsin and two west coast States that will benefit from the class IV system. All other producers in between are the big losers.
I urge my colleagues to oppose this amendment. It creates more regulation, more market distortions and discriminates against all but a few producers in the country. Mr. President, this is bad policy.

Mr. KOHL. Mr. President, it is difficult for me to oppose my friends from the Northeast in their efforts to help their region. But it is on behalf of the dairy farmers of my State that I feel that I must. Not only because I believe his compact will have a negative effect on the dairy farmers of regions outside the northeast, but also because I believe it to be an inappropriate method of addressing the problems of the dairy industry, which are national in nature.

This measure is a regional compact. It is an effort by six Northeastern States to require artificially increased milk prices for the farmers in those States exclusively. It is at its heart anticompetitive, and I believe that it is market distorting.

The expenses of this measure claim that the Northeast is an island unto itself, and that this compact will not affect any other region. I believe that statement ignores the complexities of dairy markets, which are national in nature.

To predict the exact effects of the compact on other regions is nearly impossible. But to assume that will be no loss to us is a mistake. We are a part of the history of agricultural policy.

My region of the country, the upper Midwest, has learned this lesson all too well. We, in this region, have seen our dairy industry become the victim of unforeseen market distortions caused by the milk marketing order system. This system, which was instituted in the 1930's requires that higher minimum prices for milk farther are they from Wisconsin. Since the upper Midwest was the traditional hub of dairy production, the purpose of this regional discrimination was to help those dairy farmers in Wisconsin than in the upper Midwest develop, so that every region could have a locally produced supply of fluid milk.

But that goal has been largely accomplished, and the policy that was intended to give other regions an artificial advantage is a mistake. This debate is not only about the upper Midwest. It is now contributing to the decline of dairy farming in the upper Midwest.

But that is not the case. It is not only about dairy policy. This debate is about the future direction of all agricultural policies.

I and many of my colleagues from farm States have been willing to promote farm programs that we believe will provide a safety net to farm prices, to help provide some security for the farmers in this Nation. But the Northeast Dairy Compact goes beyond anything ever done in a farm bill. And it goes far beyond any other regional compact presented to this Congress.

It is the product of one region's frustration with national policies, and an effort by that region to remove themselves from that national system and establish a regional dairy policy.

So why is this compact before the Senate? The answer is that the Northeast needs Congress' approval in order to interfere with interstate commerce.

The commerce clause of the U.S. Constitution makes it clear that States cannot interfere with interstate commerce. Court case after court case has turned down efforts by individual States to do so. Most recently, in the 1994 West Lynn Creamery, Inc versus Healy decision, the Supreme Court turned down a Massachusetts milk pricing policy that would have artificially increased the price of milk sold in Massachusetts in order to bolster the dairy farmers of that State alone.

The Supreme Court turned down that effort as being a clear violation of the commerce clause of the Constitution. At that time, even the State of Vermont argued in opposition to the Massachusetts effort, claiming that it was "economic discrimination burdening interstate commerce by interfering with competition."

But now all six Northeastern States have banded together to do something very similar to what Massachusetts tried to do on its own, and that is to artificially increase milk prices in that region for the benefit of the farmers in that region, and to protect their higher milk prices by placing a protective tariff on all milk coming into the region for outside.

Clearly this too would be considered a violation of the commerce clause if subject to the scrutiny of the courts.

However understanding the threat that this constitutionality question poses to their efforts, the Northeast have been very clever in getting around the constitutional problems. This authority has been used many times, without controversy, by States that seek to address multistate environmental or transportation concerns. But it has never been used to allow States to engage in price-fixing activities. And it has never been used as a way to circumvent the commerce clause of the Constitution.

Make no mistake about it. This compact is unprecedented in the history of the Nation. While the context of this compact may be milk pricing, its ramifications are far more significant. Congressional approval of this compact is an invitation for all sorts of economic balkanization.

Our forefathers had the foresight to see the dangers of allowing States and regions to erect economic barriers against other States in the Union. They asked the question "What are we, as a nation, if we do not have a unified economy?"

Last year, when the Northeast Dairy Compact was considered in the Senate Judiciary Committee, many of my colleagues raised constitutional concerns with the compact.

Senator HATCH commented on this matter. He stated:

I am afraid that this is the kind of precedent-setting compact that will lead other States to seek the same type of protection, to the economic detriment of all their bordering States. More importantly, I would expect that other industries will line up seeking compacts as a means of protecting their particular States' interests, and we just can't do that.

On the same matter, Senator THURMOND stated:

I believe that Congressional approval of this compact would set a bad precedent. Approval would encourage other regions of our country to form compacts to assist regional producers in a variety of industries at the expense of those outside the region. A breaking up of our nation into regional cartels and economic infighting would be very harmful and should be opposed.

At that same mark up in the Judiciary Committee last year, Senator GRASSLEY stated:

Historically, these compacts have dealt with order issues, environmental cooperation, and other subjects limited to the member States not having an impact on the rest of the country. Not just those of one region.

I tend to agree with Senator GRASSLEY that this compact is probably constitutional... But what it is constitutional is not necessarily wise.

Mr. President, the Senate Agriculture Committee has already started the debate on the reauthorization of national farm programs through the 1995 farm bill. It is my sincere hope that as we begin that debate, we can craft dairy policy changes that are beneficial to all the dairy farmers of this country, not just those of one region.

I too want to help the farmers of this Nation. But I firmly believe that the Northeast Dairy Compact is the wrong approach for our nation's dairy farmers.

Another provision of this amendment authorizes a class IV price for milk. The rationale for this provision is that since the Senate Agriculture Committee eliminated the price support for milk, powder and butter, the prices for those products will fall to world prices.

However, the problem is that the class IV price would merely create a tax on the farmers nationwide by being transferred to the farmers in those few States that have excess milk production. But that excess milk into butter and powder. In short, this imposes a butter/powder tax on the dairy farmers of those States, to be transferred to the dairy farmers of those States producing those products.
I urge my colleagues to join me in strong opposition to this compact and the class IV pricing provisions.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I raise a point of order against the amendment offered by the Senator as not being germane.

Mr. STEVENS. Will the Senator use his microphone. We cannot hear him.

Mr. EXON. Mr. President. I raise a point of order against the amendment offered by the Senator on the basis it is not germane.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second?

There is a sufficient second. The yeas and nays are ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 65, nays 34, as follows:

[Roilcall Vote No. 528 Leg.]

Title XIII: Credit for Adoption Expenses

To provide a $5,000 tax credit for the adoption of a child

Mr. STEVENS. Will the Senator use his microphone? We cannot hear him.

Mr. STEVENS. The Senator from New Jersey.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. LASAROW. Objection.

Mr. LASAROW. Parliamentary inquiry; could we have a reading of the amendment?

Mr. BALLENGER. Mr. President.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. COCHRAN. Mr. President, I move to lay on the table the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, it is our turn to offer an amendment. I yield to the Senator from New Jersey 30 seconds for the purpose of explaining and introducing his motion.

The PRESIDING OFFICER. The motion is agreed to.

Mr. LAUTENBERG. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and in the instructions to limit any individual income tax break provided in the bill to those with incomes under $1 million and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

Mr. LAUTENBERG. Mr. President, this is a fairly simple motion. It is to recommit, to cut the tax breaks for those who make over a million dollars a year, and to have the savings that occur apply to reduce the cuts that are contemplated in Medicare and Medicaid. I hope that we can finally reach a point at which we say across the board here that at some point we are not going to give tax breaks to those with the enormous incomes. We are talking about a million dollars a year on this.

The PRESIDING OFFICER. The time of the Senator has expired.

AMENDMENT NO. 3005 TO THE LAUTENBERG motion to commit

Pursuant: To provide a $5,000 tax credit for the adoption of a child

Mr. LAUTENBERG. Mr. President, I send an amendment to the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3006 to the Lautenberg motion to commit.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the amendment offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment:

At the end of the bill, add the following title:

TITLE XIII—CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL. Subpart A of part IV of chapter A of chapter 1 (relating to non-refundable personal credits). as amended by section 137, is amended by inserting after section 24 the following new section:

"SEC. 24. ADOP11ON EXPENSES."

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which shall be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable as determined without regard to this paragraph but with regard to paragraph (1) as—

"(C) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of chapter A of chapter 1, as amended by section 138, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs."

(3) Cross references to other Acts are amended as necessary.

(d) EFFECTIVE DATE.—The amendment shall be effective on January 2, 1995.

AMENDMENT NO. 3006 TO AMENDMENT NO. 3005

(Purpose: To provide a $5,000 tax credit for the adoption of a child.)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk. The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3006 to amendment No. 3005.

Mr. CRAIG. Mr. President, this is a very important, yet understandable amendment. It changes the adoption tax credit of $5,000, and we are offering this in this reconciliation package to an effective date of January, and I believe the second-degree moves it to February, 1995.

Mr. KENNEDY. Parliamentary inquiry; could we have a reading of the second-degree amendment? Was it waived?

The PRESIDING OFFICER (Mr. Gorton). The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. CRAIG. I ask unanimous consent reading of the amendment be dispensed with.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. Mr. President, I believe under the agreement we have 30 seconds to respond to this amendment. For that purpose—

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL. Subpart A of part IV of chapter A of chapter 1 (relating to non-refundable personal credits), as amended by
section 12001, is amended by inserting after section 23 the following new section:

(Purpose: To provide for reconciliation pursuant to section 303 of the concurrent resolution on the budget for fiscal year 1996)

Mr. NICKLES. Mr. President, I send up originally, and I am asking exactly the same as the amendment that Mr. DOMENICI proposes an amendment numbered 3005.

Mr. DOMENICI. Mr. President, I am given the floor for a moment——

Mr. DOMENICI. I yield part of my time.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to withdraw my motion to commit the PRESIDING OFFICER. Without objection, the motion is withdrawn.

The motion was withdrawn.

Mr. DOMENICI. I think Senator NICKLES is ready for an amendment on our side.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES, for himself. Mr. DOLE, Mr. ROTh. Ms. 

The assistant legislative clerk read as follows:

The PRESIDING OFFICER. The question occurs on amendment No. 3005.

The majority leader.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Could you get a little order?

Mr. LAUTENBERG. Can we have order in the Senate please. Mr. President?

Mr. DOLE. Mr. President. is it appropriate to withdraw the amendment at this time?

The PRESIDING OFFICER. The Senate is not in order. Members cannot hear.

Mr. DOLE. We withdraw the amendment.

The amendment (No. 3005) was withdrawn.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, I am trying to find out what they desire to do at this point.

Mr. LAUTENBERG. Mr. President, if I am given the floor for a moment——

Mr. DOMENICI. I yield part of my time.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to withdraw my motion to commit the PRESIDING OFFICER. Without objection, the motion is withdrawn.

The motion was withdrawn.

Mr. DOMENICI. I think Senator NICKLES is ready for an amendment on our side.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES, for himself. Mr. DOLE, Mr. ROTh. Ms. 

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself. Mr. DOLE, Mr. ROTh. Ms. 

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1336, beginning with line 5, strike all through page 1336, line 17.

Mr. NICKLES. Mr. President, this amendment I send to the desk on behalf of myself, Senator DOLE. Senator ROTH. Senator SNOWE, and Mr. CHAFEe. proposes an amendment numbered 3008.

Mr. NICKLES. Mr. President. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the course of the debate on the amendment (No. 3007) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

Mr. DOMENICI. Mr. President, I move to reconsider the vote. The motion to lay on the table the amendment (No. 3007) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

Mr. DOMENICI. Mr. President, I move to reconsider the vote. The motion to lay on the table the amended agreement.
Mr. NICKLES. Mr. President, the question was asked: Is this a 10-percent tax? My colleague from New Jersey raised this as well. Originally, this was a 10-percent tax. I think the committee made adjustments and made it 6.6 percent. I happen to agree with him that even at 6.6 percent, the tax is too high. Also, Mr. President, I ask unanimous consent Senator CHAFFEE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. We are eliminating the 6.6-percent tax.

Mr. DOMENICI. We do not need a vote.

Mr. EXON. It would appear to me, with the 30 seconds that I have on this side of the aisle, that as of now this Senator has not been advised that there is any opposition to this matter on this side.

Evidently, we have found this was given to us in a different order.

Does anyone wish to oppose?

Mr. BRADLEY. As I understand it, the amendment opposed by Senator NICKLES is the exact content of the amendment that I was going to offer.

So I have no opposition.

Mr. EXON. Hearing no objection on this side, I yield back the remainder of my time and suggest possibly this could be voice voted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of Senator from Oklahoma.

The amendment (No. 3008) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, there is any opposition to this matter.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 341, strike line 10, and all that follows through page 342, line 8.

Mr. MOYNIHAN. Mr. President, this amendment is to strike the 40 percent reduction in direct medical education payments in the reconciliation bill and restore $9.9 billion to teaching hospitals in the years 1996 to 2002. This reconciliation bill seriously threatens the future of medical research.

Mr. NICKLES. We are eliminating the 6.6-percent tax.

Mr. DORGAN. There is a sufficient second, Mr. President.

The PRESIDING OFFICER. The amendment (No. 3009) was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3010 THROUGH 3014, EN BLOC

Mr. MOYNIHAN. Mr. President, I am going to send to the desk, with the full concurrence of the ranking member and no objection that I am aware of, six amendments en bloc. Let me just list them: a Dole-Kohl-Grassley amendment, which is a test for truckers; that is a self-selected test; we had a little while ago that was withdrawn—it has been cleared on both sides—a Senator D’AMATO sense of the Senate.

Mr. BYRD. That amendment has not been cleared on both sides. I have just been talking with Mrs. HUTCHISON.

Mr. DOMENICI. We withdraw it. I say to Senator HUTCHISON, that has not been cleared on their side.

Senator D’AMATO has an amendment cleared on both sides, a sense of the Senate; Senator GRASSLEY has one with reference to an advisory task force: Senator BOXER has one on no pay—what do you call it? I say to the Senator.

Mrs. BOXER. No pay. We already passed it.

Mr. DOMENICI. We already passed it. Senator Grahams amendment to ensure Medicare beneficiaries have urgent Medicare treatment. We have no objection to it.

I send all five to the desk.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. I ask them to be reported on en bloc and accepted on en bloc.

The legislative clerk read as follows:

[Rollcall Vote No. 530 Leg.]
The restoration of this deduction is essential to the livelihood of the food service, travel and tourism, and entertainment industries throughout the United States. These industries and the workers they employ are being economically harmed as a result of this reduction. All are major industries employing millions of people, many of whom are already feeling the effects of the reduction.

Contrary to what many might believe, most individuals who purchase business meals are small business persons: 70 percent have incomes below $50,000. 39 percent have incomes below $35,000, and 25 percent are self-employed. Moreover, 78 percent of business lunches and 50 percent of business dinners are purchased in low to moderately priced restaurants. The average amount spent on a business meal, per person, is about $9.39 for lunch and $19.58 for dinner. The business meal deduction is the last critical element of the business tax code.

Again, I commend Senator Kohl for his efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. I urge my colleagues to also support my bill, S. 216, which would restore the business meals deduction to 80 percent for all industries.

Mr. President, the amendment that I am offering with Senator Dole will restore the business meal deduction to 80 percent for all individuals subject to Federal limitations on hours of service, including truckers, long-haul bus drivers, and others subject to the hours of service limitations of the Department of Transportation. Paragraph (i) shall be applied by substituting '89 percent for 90 percent'

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, I urge my colleagues to also support my bill, S. 216, which would restore the business meals deduction to 80 percent for all industries.

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Mr. D'Amato. Mr. President, this sense-of-the-Senate resolution would express the will of the Senate that Congress should eliminate this significant disincentive in the current law which prevents thrift institutions from changing their charters. It also prevents thrifts from diversifying into new and profitable opportunities. Given developments in financial institutions and the debate in Congress over the future of the thrift industry, it is desirable for Congress to seriously examine this aspect of the tax law that applies only to thrifts.

Mr. AMENDMENT NO. 3013

(Purpose: To provide that Members of Congress and the President shall not be paid during Federal Government shutdowns.

At the appropriate place in the bill, insert the following new section:

SEC. 3. PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) In General.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department or if the regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.
October 27, 1995

CONGRESSIONAL RECORD — SENATE

S 16007

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergenc

Mr. DOMENICI. Mr. President. I think we sort of set a pattern here. If the Senators could look at the remaining amendments—I say this to both sides, we are not in a truly inclusive process that the Senators could look at theirs, maybe they could package them with reference to subject matter. If the Senators package them with reference to subject matter, then we might get five amendments the whole process and on the subject. We think we know how they are going to turn out, but that is not terribly relevant. We could offer them en bloc.

Mr. BYRD. Mr. President, I hope that we will be careful that we do not try to streamline this silly process further. Now we are really flying dumb, dumb, and blind. So I hope we will look at these so-called packages with four or five amendments. I want to see them. I am not going to set myself up as an authority from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut has a motion at the desk which I offer to.

Mr. LIEBERMAN. Mr. President, whose turn is it?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. DOMENICI. Mr. President, I have a motion at the desk which I offer on behalf of myself, and Senators DASCHELLE, HARKIN, GRAHAM, ROCKE, BREAUX, and KENNEDY, who are members of a Medicare working group.

Mr. LIEBERMAN. I thank the Chair and I thank my friend from Nebraska.

LIEBERMAN MOTION TO COMMIT

Mr. LIEBERMAN. Mr. President, have a motion at the desk which I offer on behalf of myself, and Senators DASCHELLE, HARKIN, GRAHAM, ROCKE, BREAUX, and KENNEDY, who are members of a Medicare working group.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], moves to commit the bill to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is in session, report the following amendment, and to make sufficient reductions in the tax cuts to maintain deficit neutrality.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

The purpose of this amendment is to restore the solvency of the Medicare Part A trust fund for the next 10 years and then to go on, beyond dealing with that immediate, obvious deficit looming, to reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plan options, by increasing information so that beneficiaries can act as informed consumers, and to require planning and action for the changes that will come with the retirement, the coming retirement, of the baby-boom generation.

This is a constructive Medicare alternative.

Mr. President, what we have here is a missed opportunity. Democrats and Republicans agree generally that there are some problems with the Medicare Program that we must address:

Problem No. 1. Our Republican colleagues argue that the Medicare Program must be saved from bankruptcy in the Part A trust fund. Democrats agree that we must act to restore the solvency of the Part A trust fund. The Health Care Financing Administration's Actuary tells us that it will take $89 billion in spending reductions to assure solvency through the next 10 years—through 2006. Democrats have put forward a strong proposal that would do this in a fair manner. It has been scored by CBO and achieves solvency for at least the next 10 years.

Problem No. 2. The rate of increase in the cost of the Medicare Program is unsustainable at 10 percent each and every year. We will agree that this problem must be dealt with. Democrats and Republicans have both put forward proposals that begin to bring competitive market forces into the Medicare Program. I would argue that the Democratic proposal is much stronger in this regard. We would strongly move the Medicare Program toward competitive bidding among the private health plans participating in Medicare. We would also increase rates of interest that private health plans to private sector market price, rather than to arbitrary budget targets. Ultimately, I am convinced that competition among an expanded range of private health plans serving Medicare patients will be the key to reducing long term rates of growth in the Medicare Program.

We recognize that the Medicare Program is 30 years old and is showing signs of its age. We have proposed changes that would bring the program into the rapidly changing health care system of the 1990's and the next century.

Problem No. 3. The most difficult problem looming on the horizon. Mr. President, is the coming retirement of the baby boom generation—a relatively large group of Americans we begin with 78 million baby boomers will begin to turn 65 starting in 2000. There are some millions in the baby boom generation. They outnumber by 50 percent the generation that preceded them into retirement.

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Problem No. 1. Our Republican colleagues argue that the Medicare Program must be saved from bankruptcy in the Part A trust fund. Democrats agree that we must act to restore the solvency of the Part A trust fund. The Health Care Financing Administration's Actuary tells us that it will take $89 billion in spending reductions to assure solvency through the next 10 years—through 2006. Democrats have put forward a strong proposal that would do this in a fair manner. It has been scored by CBO and achieves solvency for at least the next 10 years.

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the combination of, one, a declining base of workers and, two, longer life-spans will double the combined costs of Medicare and Medicaid even if medical inflation decreases, above CPI is eliminated altogether.

If Medicare is not prepared for the implications of this demographic shift, it may not be able to weather the storm. Republicans and Democrats have both put forward Medicare reform plans that would set up a high level, bipartisan commission to make the tough recommendations that are needed to prepare for this historical shift. The differences between the parties, nevertheless, remain stark. The bill that is on the Senate floor today would cut $280 billion out of the Medicare Program over the next 7 years. The problem, Mr. President, is that this figure is based solely on a series of budget targets that lead to a balanced budget and reductions in taxes of $254 billion over the next 7 years.

The largest cuts before us is too long on squeezing beneficiaries and too short on genuine reform. It treats Medicare as a cash cow to be milked to keep promises of deficit and tax reduction made in the campaigns of 1994. The figure of $280 billion in Medicare cuts is not good for the Medicare Program and the population it serves—those who depend on it today and those who will depend on it in future generations.

In the end, Mr. President, I am convinced that we can find a solution to all of these problems. What we have on the Senate floor today, however, is not the solution. It maintains all of the problems of the existing Medicare Program and underfunds them. It is a package of cuts, not reforms. Mr. President. I ask unanimous consent that the Democratic Medicare plan printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD as follows:

A Democatic Medicare Plan for the 21st Century

Since Democrats created Medicare thirty years ago over GOP opposition, protecting this program has been a top Democratic priority. Today, as Republicans propose the largest cuts in Medicare's history—cuts made in the name of "saving" Medicare—Democrats once again are coming to Medicare's defense.

Our proposal: To ensure that Medicare remains solid and strong by implementing reforms that strengthen and improve the program.

Our position: That the GOP Medicare plan cuts Medicare three times more than it is necessary to restore Trust Fund solvency—and raids Medicare to pay for their scheme of tax cuts, would be the wrong way to go.

Rejecting the Republican plan is not enough. Democrats will offer a proposal with three key elements:

Preserves seniors' right to keep their own doctor while giving them more choices of private health plans that provide high-quality and comprehensive benefits:

Improves Medicare's traditional fee-for-service program by making it more efficient and affordable without imposing unnecessary and unfair increases in out-of-pocket Medicare expenses;

Tackles Medicare waste, fraud and abuse through programs applauded by law enforcement officials; and

Guards the solvency of the Medicare Trust Fund through the year 2006 and prepares for the long-run challenge of the baby boom generation that will begin to retire in 2010.

The GOP plan would have to cut $270 billion in order to save Medicare. That's just not true. According to the Health Care Financing Administration's projections, the estimates relied upon by the Medicare trustees—only $89 billion in cost reductions are needed to extend the life of the trust fund through the fourth quarter of the calendar year 2006.

In this proposal, we show that we can preserve and protect Medicare without slashing needed services for the elderly or increasing their out-of-pocket costs. Our plan places no new burdens on seniors—and our hospital cuts are half the Republicans'.

SUMMARY OF DEMOCRATIC PROPOSAL TO ENSURE SOLVENCY

I. Providing real choices

Medicare beneficiaries currently may choose from only two options—the traditional fee-for-service program and health maintenance organizations. In 1994, there were 17 HMOs, seniors in many states have no choice at all. This plan would ensure beneficiaries access to a wider variety of health plans. Specific reforms include the following:

Expand private health plan choices: Medicare's current system of fee-for-service plans allow the participation of preferred provider organizations, point-of-service plans, and provider sponsored networks. Plans would be required to meet the benchmark standard for each disease or condition and provide the benchmark level of benefit to seniors.

Preserve a vital and affordable fee-for-service option: The GOP's $270 billion in cuts will spell disaster for hospitals and other health care providers all across the country, particularly in rural and underserved areas. The Democratic plan protects and improves fee-for-service Medicare—so seniors will continue to have a real choice. It keeps premiums affordable, saving seniors hundreds of dollars a year.

Reform payments to private health plans: Medicare's fee-for-service and other health plans a rate which would indicate the cost of other private health plans, unlike the GOP plan which arbitrarily caps payments and reduces Medicare spending. The Democratic plan would allow the participation of preferred provider organizations, point-of-service plans, and provider sponsored networks. Plans would be required to meet the benchmark standard for each disease or condition and provide the benchmark level of benefit to seniors.

The Democratic plan would also require Medicare to test and recommend options to Congress on ways to pay private health plans through a market-based competitive bidding process.

Provide information on health plan options: Medicare would provide all beneficiaries information comparing plans available in their region. The comparative plan information would be presented in a standardized format, in language that is easily understood. Such information would be provided to beneficiaries before they become eligible for Medicare and yearly after that during an open enrollment period.

II. Strengthening Consumer Quality Protections

Strengthen Consumer Quality Protections: Medicare, and other health plans, would be required to meet plan quality standards to prevent improper marketing and inappropriate incentives for utilization reviewed by the Actuarial Commission to the full range of Medicare covered services, including emergency and urgent care.

III. Attacking waste, fraud, and abuse

The General Accounting Office and others have estimated that up to 10 percent of Medicare spending goes to fraud, waste, and abuse. Millions of dollars in Medicare payments are lost every year to fraud, waste, and abuse. These losses must be the first target of any responsible Medicare program. The Democratic plan would take the most aggressive and comprehensive steps ever proposed to stamp out Medicare waste, fraud and abuse.

Specific measures include the following:

Expand abuse-fighting activities: Much abuse goes undetected and unpunished because there are not enough inspectors, auditors and prosecutors to do the job. Estimates indicate that every dollar invested in anti-fraud activities by Federal, State, and local governments can prevent $5 to $10 in Medicare expenditures. The Democratic plan will increase funding to Federal, State, and local law enforcement efforts to combat health care fraud.

Strengthen penalties for committing fraud: The Democratic plan would impose stiffer penalties on those convicted of health care fraud: illegally distributing controlled substances, providing kickbacks, charging excessive rates, over-billing, billing for non-existent services, submitting false claims, or engaging in other abusive activities. This plan also strengthens available criminal remedies.

End wasteful Medicare spending for critical items and services: For example, Medicare...
Congressional Record - Senate

October 27, 1995

CONGRESSIONAL RECORD — SENATE

S 16009

AMENDMENT NO. 3015

Mr. DOMENICI. Mr. President, I understand now that if I send the Hutchison amendment to the desk, the Senate does not have to vote on it. But with this withdrawal, the Senator BYRD objected, and he now has no objection. I send it to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mrs. HUTCHISON, for herself. Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COOPER, Ms. SPECTER, Mr. KERRY, Mr. THURMOND, and Mr. THOMAS, proposes an amendment numbered 3015.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with. Without objection, it is so ordered.

The amendment is as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently testified that war crimes are occurring in war-torn areas in the former Yugoslavia.

(3) The U.N. High Commissioner for Refugees recently reported that between October 6 and October 12, 1995 thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units. Local police and in some instances, Bosnian Serb military officials and soldiers.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand Muslim refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facie evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal".

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslim refugees have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on October 18, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said that "the accused of war crimes, against humanity and genocide must be brought to justice. They must be tried and, if necessary punished, for their crimes."

Homes since mid-September in Bosnian Serb areas were systematically forced from their homes by paramilitary units. Local police and in some instances, Bosnian Serb military officials and soldiers.

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. As follows:

YEAS—47

Abraham Akaka Alexander Akaka Alexander
Alaska
Bennett
Brown Burns
Campbell
Chafee
Coats
Cochran
Cohen
Covell
Craig
D’Amato
DeWine
Dole
Domenici
Faircloth
Frist
Futrell
Geithner
Graham
Green
Grassley
Greene
Hatch
Heflin
Hollings
Hutto
Inhofe
Jeffords
Kassebaum
Kasich
Kempthorne
Kyl
Lott
Lugar
Levin
Levit
Lincoln
McCain
McConnell
Markowski
McGovern
McGovern
McNulty
McNulty
Mikulski
Mollura
Nelson
Nunn
O’Neill
O’Neill
Osburn
Prince
Privett
Reed
Reid
Reid
Reid
Reid
Sarbanes
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Spector
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Mr. ExON. Mr. President, I address the Chair. The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ExON. Mr. President, subject to section 904 of the Congressional Budget Act of 1974, I move to waive the section for the purpose of considering this amendment.

I ask for the yeas and nays on the motion to waive the PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays ordered—yeas 47, nays 52. As follows:

[Rollcall Vote No. 531 Leg.]

NAYs—52

Abraham
Ashcroft
Benett
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The PRESIDING OFFICER. The Chair.

Mr. EXON. Mr. President, subject to section 904 of the Congressional Budget Act of 1974, I move to waive the section for the purpose of considering this amendment.

I ask for the yeas and nays on the motion to waive the PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays ordered—yeas 47, nays 52. As follows:

[Rollcall Vote No. 531 Leg.]
found guilty, they must be held accountable."

The President Clinton also observed on October 16, 1995, "Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails."

S 16010

CONGRESSIONAL RECORD—SENATE

October 27, 1995

The PRESIDENT proclaims the amendment. Without objection, it is so ordered. (The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. We yield back any time.

Mr. EXON. Mr. President, let me thank Senator KOHL, who has worked on this for a long, long time. It is a very good amendment. He has worked with the majority leader on this. We are enthusiastic about this on our side. Mr. DOMENICI. Senator BYRD would like to have the amendment explained.

Mr. KOHL. This amendment will allow family farmers—not farmers who are not farming the land, family farmers—who farm the land for generations, when they sell their farm to roll over up to $500,000 of the proceeds into an IRA account. It only applies to hard-working family farmers.

We offset it by requiring those individuals from foreign lands or corporations, foreign lands who own U.S. stocks which are not now subject to tax, when they sell those stocks they will in the future be required to pay a U.S. tax on the sale of that U.S. corporation stock that they own.

I think the offset is an outstanding amendment. I think the purpose of the IRA is to reward hard-working family farmers. I think it is a really good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3016) was agreed to. Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3017

(Purpose: To require the President to include a generational accounting in the President's budget)

Mr. DOMENICI. Mr. President, I send a Simpson amendment to the desk in his behalf.

Mr. DOMENICI. Mr. President, this amendment would require the annual budget of the President include a chapter on generational accounting (including the increase required in current levels) required to eliminate the projected Federal deficit."

Mr. SIMPSON. Mr. President, I rise today to offer an amendment that all Senators should be able to agree on. It would require that the President's annual budget continue to include a chapter on generational accounting.

Generational accounting is a way to consider the fiscal treatment of different generations. Specifically, it indicates what the members of each generation can expect to pay on average, now and in the future, in taxes, as a result of current budget expenditures and revenues.

President Bush included a chapter on generational accounting in his 1993 fiscal year budget and President Clinton included a chapter on generational accounting in his 1995 fiscal year budget—but he failed to include any mention of generational accounting this year.

One of the 32 of us on the bipartisan commission on entitlements and tax reform concluded that if we do nothing about the impending entitlements crisis, by 2018 every penny of our Federal revenues will be necessary to pay for entitlements and interest on our national debt. In 2040, our children and grandchildren will be forced to pay 40 percent of the national payroll tax base in taxes.

It is crucial that we begin to take a longer term view of the future and consider how the impact of our decisions today will affect our children and grandchildren. If you truly are concerned about the burden of taxes on those we love, then you will support this amendment.

For 2 days now, I have listened to my colleagues talk about the young, the disenfranchised while they ignore the biggest crisis—the impending bankruptcy of the Social Security Program. It is like crying about slippery banana peels on the deck of the Titanic.

Our temporary fix for the Medicare Program is nothing more than delaying the inevitable. My colleagues are cheering that Medicare will not go broke in 2002, but rather in 2008. Now that is something to be proud of. Yet, we only have ourselves to blame. In the past, the Social Security Advisory Council provided guidance on Social Security and Medicare issues. However, we got rid of the Advisory Council and instead created an Advisory Board—except that they no longer provide guidance on Medicare issues. How ironic. The program that is going to the dogs first is the program we decided we do not want any guidance on.

So we have done it to ourselves. But we can stop this game-playing if we are forced to consider what we are doing to future generations—and this is why generational accounting is so important.

Mr. President, this amendment would simply require the annual budget of the President include a chapter on generational accounting.
The President of the United States, President Clinton, did a nice job on that in the first budget message. It was left completely out of the second one, too. If I think it is vitally important we tell the American people 20 and 30 years down the line who is paying the bills. I hope we can get back what President Clinton put in his first budget. This requires that so that we know what is out there. We need to look at 20- and 30-year generational accounting, who is paying the bills, who really cares about the children of the country and also deals with that issue in an upfront way.

Mr. EXON. We yield back our time and accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 3017) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. EXON. I advise the Senate and the chairman of the committee that the next four amendments all have to do with medical matters. We think we have those bundled into one amendment that can be offered.

If required, though, I would like unanimous consent that we have tentatively agreed to: roughly, that if we have situations like this—in this case, there are four introducers—if the introducers would like 30 seconds each, we would grant them that to encourage further melding of these amendments that are similar into one amendment and therefore expedite the process.

Mr. DOMENICI. Does the minority leader agree with that? I had talked to him. It seems a little different when he was proposing it.

Mr. DASCHLE. Mr. President, I have no objection to that approach. I think all Senators need to have the opportunity to express themselves, whether it is a block of time or one person does it or individual blocks of time.

I know the distinguished Senator from West Virginia is very concerned that everybody have a complete appreciation of what the original amendments were. So it is our view it expedites not only the process but the issue, in order to allow us to bring them up together.

So I think all concerns are served in this particular amendment. I hope we can support it.

Mr. DOMENICI. Let me just address this for a moment. Senator BYRD, as I understand it, if they would have sent their amendments up singly, they would have had 30 seconds. That is the agreement. They are going to send up four together—three and the other one. They will have 30 seconds on each of those and we will have 30 seconds to respond on each of those. I do not see anything more than save us the time of three votes. The rest of the rights are all intact, as we have agreed to them here in the Senate.

Mr. EXON. I was explaining that rather than four, we set aside the Dodd matter, which will be considered separately. The Feingold, Moseley-Braun, and Rockefeller amendments are em-bodied under the agreement that we have worked out.

Pending final working out of some details, I suggest, since Senator DODD, whom I earlier thought was included in this, is not in the single list, at this time I yield 30 seconds to Senator DODD for an explanation and the introduction of his motion that both sides have received some time ago.

DODD MOTION TO CONSOLIDATE
Mr. DODD. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

"The Senator from Connecticut (Mr. Dodd) proposes a motion to commit." Mr. DODD. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows: Mr. President, I move to commit to the Committee on Finance with instructions to report the bill back to the Senate in 3 days (not in session) making changes in legislation within that Committee's jurisdiction to reduce revenue deductions for upper income taxpayers by $51,000,000,000. In order to--

(1) restore current law Medicaid eligibility for children and pregnant women.

(2) include coverage of prenatal care and delivery services for pregnant women and Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) for children.

(3) strike the 20 percent cut from title XX of the Social Security Act.

(4) strike the cap on foster care administrative expenses.

Mr. DODD. This does three things. It restores Medicaid coverage for pregnant women and children, both eligibility and benefits; it restores the cut in title XX, which States are widely using for child care assistance; and, third, it restores the cut in foster care funds that States use to investigate reports of child abuse and to recruit foster parents. Again, these are three issues I think most people here believe are critically important. This would restore those parts of the bill.

CHILDREN: EARNING HAS A COST
Mrs. MURRAY. Mr. President, I want to speak today about the children of this Nation, about my hope they will not give up hope, and my wish they will look forward to a brighter future.

I want to tell the children of this country and of my state—despite what is going on in this current budget fight—there are adults who care about them.

I do not want to say the adults in the majority party don't care about our children. This budget plan does make some cuts, however, whether some Members of this austere body remember what it is like to raise children.

It makes me wonder whether some Members have ever really had to deal with the most modest problems and costs every working family has to deal with: the costs of child care, the costs of medical care, the costs of school lunch.
I would simply remind those Members: caring does have a cost, and the cost is in no way reflected in this budget. Children in this country feel like they have less to look forward to than ever before. Many adults on this floor have derided the state of our children's present and future, and many of us have felt the eyes of these kids upon us as we have cast a vote or made a speech.

So, here is what the majority will do for our kids in this budget: they will take away the health care coverage that allows kids to be healthy and ready to learn and grow. They will take away the child care that allows kids' parents to work. And, they will take away the foster care that helps kids in serious need.

Well, we have an amendment to this budget reconciliation bill to repair the damage: it will restore current Medicaid coverage for pregnant women and their kids, restore child care, and restore foster care funding.

On Medicaid, we need to preserve a safety net for children born into families of modest means. Medicaid is not free tummy-tucks for folks who don't need it.

Medicaid provides preventive and emergency care for needy kids, and long-term care for disabled children—who could be the children of any American family. We are restoring Medicaid coverage for these children, on a per-capita basis, instead of a block-grant that would cause them to compete against the elderly or other groups.

On child care, we cannot say to working mothers, struggling to stay off public assistance. "Oh, by the way, we are cutting money that allows you to work for a living." The Republicans have cut $33 billion in title XX child care grants to States at the same time they are promising $3 billion under welfare reform. The request is not try and trick anyone. They are cutting child care—our amendment restores the cut.

On foster care, the majority is now going after children who do not even have birth-parents to rely upon. This cut is a classic: it tells a child, "we're really sorry that it's not working out with your folks, and that this is the toughest time in your life, but we cannot afford to pay for your foster care."

Meaningful assistance is one of the Republicans want to give tax breaks to people who can already afford to leave their children in the care of a high paid nanny every day.

Mr. President, our children are more important to us than a number on a balance sheet. I understand and agree we must balance the budget. We must preserve a future for our children, by making tough choices down our debt. But, we keep families alive, and able to work to support and raise their kids. Otherwise, we will shackle future generations with a much worse kind of debt.

Mr. PRESIDING OFFICER (Mr. SMITH). Who yields time?

Mr. DOMENICI. Mr. President, I move to table the Dodd motion.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table the Dodd motion. The clerk will call the roll. The legislative clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 50, nays 49, as follows:

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Grassley Brown
Hatch Burns
Heflin Hollings
Inhofe Coverdell
Jeffords Craig
Kempthorne Craig
Kassebaum Craig
Kentucky Dole
Lugar Dole
McConnell McCain
Moseley-Braun Moseley-Braun
Moynihan Moynihan
Muttini Muttini
Nickles Nickles
Paul Paul
Pryor Pryor
Reid Reid
Robb Robb
Roth Roth
Santorum Santorum
Simpson Simpson
Smith Smith
Snowe Snowe
Specter Specter
Stevens Stevens
Thomas Thomas
Warner Warner

So, the motion to lay on the table the Dodd motion to commit was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair. The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, earlier we had suggested that three Medicare amendments by Senator FEINGOLD, Senator MOSELEY-BRAUN, and Senator ROCKEFELLER be combined into one. We agreed that each Senator would have 30 seconds to explain their joint amendment.

At this time, I ask the Chair to recognize Senator FEINGOLD, then Senator MOSELEY-BRAUN, and then Senator ROCKEFELLER.

I congratulate them for expediting the process.

Mr. BYRD. Mr. President, I do not believe consent has been given to package amendments.

The PRESIDING OFFICER. Is there objection to the request?
Mr. ROCKEFELLER. Twelve years and under to have standards for their health benefit packages.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MOSELEY-BRAUN, Mr. President, this amendment provides for flexible community and home-based, long-term care programs for individuals with disabilities of any age that have been Medicaid funded by striking provisions in the bill providing new tax expenditures for long-term care insurance and expanded IRA's.

The amendment would save $2.3 billion over 7 years. It is based on a very successful program in Wisconsin that has saved us hundreds of millions of dollars, keeping people in the community rather than in nursing homes.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MOSELEY-BRAUN. Mr. President, Senator MOSELEY-BRAUN, Mr. President, the other part of the amendment has to do with people who are transitioning from welfare to work so we can provide that they will not lose health coverage, and particularly that the children will not be put in jeopardy of losing their health care when their parents go into the work force. Over a million children will be involved with this, Mr. President, and I encourage support for providing a minimal safety net for them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI addressed the Chair.

Ms. MOSELEY-BRAUN. Mr. President, in my previous remarks I talked about Medicaid insurance, and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. But overall they violate the Budget Act for germaneness. and I make a point of it. 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The reconciliation bill repeals this provision resulting in a $20 million cost to the Federal taxpayer by the purchase of additional cheese surpluses from California. This amendment strikes that provision and leaves current law intact and saves $20 million.

The PRESIDING OFFICER. The pending question is amendment No. 2999.

Mr. DOMENICI. That is the amendment that was just described.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President. The Agriculture Committee bill would repeal section 102 of the 1990 farm bill. Section 102 required in that bill to override State operating orders. It has been in existence for 5 years and has never been used.

It seems to me we ought to remain consistent and we ought to defeat the amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2999. The yeas and nays have been ordered. The clerk will call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Roll Call Vote No. 534 Leg.]

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So the motion to lay on the table the amendment (No. 2999) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote. And I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President. I am not quite certain where we are in the process. Some have suggested that we take a couple hours recess here to try to get the amendments into a little group. I do not know how many are left. We do not have any idea how much longer it is going to take.

We are trying to decide whether to leave here as is and come back at nine in the morning, or whether to take an hour break and see if we cannot further winnow down the number of amendments. We would like to finish it sometime tomorrow.
The Senator from Iowa (Mr. HARKIN), for himself, Mr. DASCHLE, Mr. DORGAN, Mr. WELSTONE, Mr. HEFLIN, and Mr. BUMPERs proposes an amendment numbered 3200.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under Amendments Submitted.)

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself and Senators DASCHLE, DORGAN, WELSTONE, HEFLIN, and BUMPERs.

Basically, Mr. President, this is an agricultural substitute. It cuts $4.2 billion out of agriculture, not the $12.6 billion that is in the bill. It provides for a two-tier marketing loan system for wheat and feed grains. And we offset the cost of the bill by striking the provisions of the bill affecting the alternative minimum tax.

So basically, if you want a fairer farm bill for our farmers and rural people, this is it. It only cuts $4.2 billion, not the $12.6 billion in the bill. And we do have an offset.

Mr. DOMENICI. Mr. President, this is a rewrite of the farm bill which is in this reconciliation bill. After much concern and consideration, the Committee on Agriculture provided a farm bill which reforms much of agriculture in America.

I do not believe we ought to be undoing that here with a total subtext. It is not germane and is subject to a point of order under the Budget Act. And I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the purpose of the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been entered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 31, nays 68, as follows:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
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<tbody>
<tr>
<td>Abraham</td>
<td>Frank</td>
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<td>Ashcroft</td>
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<td>Breaux</td>
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<td>Byrd</td>
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<td>Campbell</td>
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<td>Chafee</td>
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<td>Coleman</td>
<td>Brown</td>
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<td>Cochran</td>
<td>Burns</td>
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<td>Coats</td>
<td>Byrd</td>
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<td>Craig</td>
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<td>Dole</td>
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<td>Domenici</td>
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The yeas and nays resulted—yeas 31, nays 82, as follows:

<table>
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<th>Yeas</th>
<th>Nays</th>
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<tr>
<td>Akaka</td>
<td>Frank</td>
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<td>Baucus</td>
<td>Ford</td>
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<td>Boxer</td>
<td>Gorton</td>
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<td>Bryan</td>
<td>Glenn</td>
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<td>Bumpers</td>
<td>Heflin</td>
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<tr>
<td>Ceden</td>
<td>Heffley</td>
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<tr>
<td>Daschle</td>
<td>Inouye</td>
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<tr>
<td>Dodd</td>
<td>Kennedy</td>
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<tr>
<td>Dorgan</td>
<td>Kerry</td>
</tr>
<tr>
<td>Exon</td>
<td>Kohl</td>
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</tbody>
</table>

The yeas and nays resulted—yeas 17, nays 82.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 17, nays 82.

The point of order is sustained. The matter and therefore is not germane.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

This amendment adds a new subject matter and therefore is not germane. The point of order is sustained. The amendment falls.

Mr. DOLE. Are there further amendments?

AMENDMENT NO. 2986

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 2986 AS MODIFIED

(Purpose: To express the sense of the Senate concerning a flat tax and reform of the current Tax Code)

Mr. SPECTER. I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Senator SPECTER has a sense of the Senate amendment.

Mr. SPECTER. Mr. President, I call up amendment 2986.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, is it in order to modify the amendment?

AMENDMENT NO. 2986

The PRESIDING OFFICER. Are there further amendments?

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. The amendment is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: SEC. . Sense of the Senate.—(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated $5.4 billion hours every year compiling information and filling out Internal Revenue tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits;

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated 2 percent over seven years.

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform. And it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate.

Mr. SPECTER. Mr. President—within 30 seconds—this amendment expresses the sense of the Senate that Congress should proceed to build on this achievement. It does not specify the precise type of a flat tax. There has been a lot of expression in favor of a flat tax as being pro-growth, not regressive with a substantial exemption for individuals.

And I ask my colleagues to support this concept in general terms with this sense of the Senate resolution.

I yield back the balance of my time.

Mr. EXON. Mr. President, this amendment has no effect on reducing the deficit, which is what this bill is all about. It is a good political statement for people who are involved in politics at this particular time in the year. I think we do not have the time to look at this. I may be for a flat tax at some time in the future, but this is not the place or the time to put the Senate on record.

Therefore, Mr. President, I raise a point of order that the pending amendment is extraneous and violates the Byrd Rule, section 313(b)(1)(A) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I move to waive that section.

The PRESIDING OFFICER. The motion is made to waive.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 17, nays 82.
S 16016

[Rollcall Vote No. 537 Leg.]

YEAS—17

Baucus
Breaux
Brown
Campbell
Craig
Dole

YEAS—82

Abraham
Akaka
Ashcroft
Bennett
Biden
Bingaman
Bond
Boxer
Brady
Bumpers
Burns
Byrd
Bumpers

CHANGEOF VOTE

Levin
Lautenberg
Leyh
Levin
Faircloth
Feingold

AMENDMENT NO. 301

(Purpose: To target commodity-program benefits to small and moderate-sized farm operations, and to ensure that large farm operations contribute to deficit reduction by requiring that agricultural payment limitations be directly attributed to individuals and not to the entities that receive payments. The amendment also provides definitions for "individual," "commodity," and "entity."

The amendment is as follows:

SEC. 1. PAYMENT LIMITATION

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) $1802000000 for the fiscal year 1996:"

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (3) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(2) CONFORMING AMENDMENT—


"(2) Section 1001(b)(2) of the Act (7 U.S.C. 1308(2)(B)) is amended by striking ‘72.5 percent’ and inserting ‘72.5 percent’.

"(3) Section 1001(c)(1) of the Act (7 U.S.C. 1308(3)) is amended by striking ‘72.5 percent’ and inserting ‘72.5 percent’.

(b) Strike section 1104(4)(C)(ii)(I) and insert the following:

"(I) by striking ‘85 percent’ and inserting ‘72.5 percent’.

SEC. 3. CONSERVATION RESERVE PROGRAM

Amend section 1201(a) by striking ‘(1) $1,787,000,000 for fiscal year 1995’ and all that follows through ‘(3) $1,050,000,000 for fiscal year 2000’ and inserting the following—

"(1) $1,802,000,000 for the fiscal year 1996;

"(2) $1,811,000,000 for the fiscal year 1997;

"(3) $1,476,000,000 for the fiscal year 1998;

"(4) $1,277,000,000 for the fiscal year 1999;

"(5) $1,311,000,000 for the fiscal year 2000;

"(6) $1,029,000,000 for the fiscal year 2001;

"(7) $1,040,000,000 for the fiscal year 2002.’

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

Mr. WELLSTONE. Mr. President, this would limit the farm payments to $40,000 a year. Over the last 10 years, only 2 percent of the recipients have received more than that.

It saves $1.6 billion over 7 years. It assures that the larger farmers are a part of deficit reduction and from these savings, this goes back to help some of the mid-sized farmers and also the Conservation Reserve Program.

I send this amendment to the desk with Senator Lieberman as a cosponsor.

SEC. 4. REPLACEMENT OF CMF PROVISIONS

Amend section 1308 (7 U.S.C. 1308) by striking ‘(2) $1,300,000,000 for the fiscal year 1995’ and all that follows through ‘(2) $1,300,000,000 for the fiscal year 1997’ and inserting the following—

"(1) $1802000000 for the fiscal year 1996;

"(2) $1811000000 for the fiscal year 1997;

"(3) $1476000000 for the fiscal year 1998;

"(4) $1277000000 for the fiscal year 1999;

"(5) $1311000000 for the fiscal year 2000;

"(6) $1029000000 for the fiscal year 2001;

"(7) $1040000000 for the fiscal year 2002.’

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

The PRESIDING OFFICER. The Senate will please be in order. Senators please take their conversations elsewhere.

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

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Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?
Mr. EXON. Mr. President, I yield the remainder of my time. We approve of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3022) was agreed to.

Mr. EXON. Mr. President, I believe the next amendment that we have would be by the Senator from New Jersey. I yield 30 seconds for the purpose of an explanation of the amendment to the Senator from New Jersey.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The clerk will report.

Mr. BRADLEY. Mr. President, I send an amendment to the desk on behalf of Senator Brown and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY, AND SECTIONS 3005 AND 3006 OF TITLE 10, UNITED STATES CODE.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b).—

(1) the Secretary of State; and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities in locations throughout the United States with a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDS.—For funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(1) (relating to the Acquisition and Maintenance of Buildings Abroad) account.

Mr. DOMENICI. Mr. President, I think this has been cleared on both sides. This has to do with lease-purchase agreements and authority to do that interagency, between agencies of the Government.

Mr. EXON. Mr. President. I yield back the remainder of my time. We approve of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3022) was agreed to.

Mr. EXON. I move to reconsider the vote.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an amendment numbered 3022.

Mr. BRADLEY. Mr. President, I move to strike sections 5400 and 5401 of the reconciliation bill. These provisions in the title of the Committee on Energy and Natural Resources that would repeal the prohibition on prepayment of construction charges.

I read with some interest the "Dear Colleague" sent around by the Senator from New Jersey. It presents a curious and inaccurate history of reclamation provisions. Its description of the committee provision is also flawed. The letter uses the rhetoric of "corporate welfare" and "costly "West" subsidies as if they were some magic incantation that would transform the true intent of the motion. The committee language does not create a loophole; it terminates a foolish restriction inserted in the 1982 Reclamation Reform Act to prevent irrigation districts and individuals who hold repayment or water service contracts from prepaying their debt. Prior to 1982, that limitation did not exist.

The letter is not correct about the history of reclamation law that led to the 1982 act. The letter states that when the reclamation program began in 1902, Congress provided low cost irrigation water to small—160 acres or less—family farms. The policy was intended to help small farmers; large farms were explicitly excluded from the subsidies.

In 1982, Congress recognized that the average family farm had grown, and increased the acreage limitations from 160 acres to the present 960 acres. Holders larger than 960 acres were required to pay full cost for irrigating their excess holdings.

The reconciliation bill creates a loophole permitting the wealthiest farmers to avoid paying full cost instead of the subsidized price. It allows farmers with water—nothing wrong with that—but at the subsidized rates intended for small family farms. For these large farm operations, the cost of prepaying could be less than the cost of 1 year's irrigation water. These individuals would then be exempt forever from paying full cost, and for non-cost pricing, even if the Federal Government makes new investments that would enhance their water projects. The net present value of the benefits to these individuals—and loss to the U.S. Treasury—could exceed $1,000 an acre. How can we justify such welfare for the wealthiest?

As a result of this provision, the very family farmers for whom the Reclamation Program was designed will face ever-larger competitors who obtain even greater subsidies than the small farmer. This change in policy would be accomplished without hearings and without any meaningful analysis of impacts, taxpayer costs, winners or losers. It is not fair to the many farmers throughout the West who have complied with the letter and intent of reclamation law, and did not seek additional discounts or waivers of key provisions of Federal law. I believe that allowing people to have the same-

It also is not fair to the many farmers throughout the West who have complied with the letter and intent of reclamation law, and did not seek additional discounts or waivers of key provisions of Federal law. I believe that allowing people to have the same—could exceed $1,000 an acre. How can we justify such welfare for the wealthiest?
and elsewhere who repay nothing because their benefits are called flood control. The statement is also inaccurate in suggesting that Congress provided the water, since in many of the early projects, such as the Newlands Project, the water users held, and still hold, the water rights. What the Federal Government did was to provide the financing for the storage and conveyance systems. Even where the Federal Government obtained the water rights for a project, the Reclamation Act specifically required the rights to be obtained in full compliance with the laws of the States. One major problem was that the Supreme Court made it clear that the Federal Government held those rights as a trustee for the water users. Congress did not provide water. In addition, the statement that Congress was providing low-cost water would come as a surprise to the water users who were required to reimburse the Federal Government for the entire cost of the projects. Such as the Newlands Project. The letter speaks of the 1982 act easing the ownership limitations. It is not a concern for the family farmer that lies behind this motion, but rather a desire to keep Federal control over family farms for as long as possible. No one should misunderstand the true motives of those who support this motion. All you have to do is look at the proposed regulations issued by Secretary Babbitt to see what the objection is. The regulations, which depend on the economic benefit test, address the situation where possession is not held by the potential lessor. It is not a concern for family farmers associated with farming his land, if he is subjected to full cost irrigation water rates. In its analysis of the proposed rules (60 Fed. Reg. 16924) Interior explains the lease definition change as follows: Lease would be substantially modified. Under the existing regulation, one of the key elements in the definition of lease is the assumption of economic risk by the lessee. This definition permits the development of arrangements under which an individual or legal entity is paid a fixed fee for operating a farming enterprise. Since the operator under these arrangements assumes no economic risk, Reclamation currently does not deem the operator to be in a lease relationship. Therefore, under the existing rules, operators are not subject to full cost irrigation water rates. The second and third sentences of the definition would address the situation where more than one party has some degree of possession and control of the land, a lease would exist. Reclamation would then consider the lessee to be the owner of the economic benefit. When two or more parties占有 the land, a lease would exist. Reclamation would then consider the lessee to be the owner of the economic benefit.
Committee when the Reclamation Reform Act was adopted, made a very eloquent statement on the effect and proponents of the proposed regulations. He stated:

Under the proposed regulations, if a farmer were to fall ill and his children or neighbors were to take over the management of the farm so that he was not going to be able to pay his debts and not have to sell off the homestead, Secretary Babbitt would send a bill for full cost even if the children were not even benefited for their costs.

If a farmer were called to military service and his fater took over the farm while he served his country, the President would pay him a medal and Secretary Babbitt would send him a bill for full cost.

At the rate EPA is trying to regulate every aspect of our lives, I guess we could send the bill for full cost even if the children were to take over the management of the farm so that he was not going to be able to pay his debts and not have to sell off the homestead, Secretary Babbitt would send a bill for full cost even if the children were not even benefited for their costs.

There is not the slightest concern for sovereign States with a central government and a recognition that this is a Republic of the sovereign States. What the committee did was let it be known that they were striking that. We think we have crafted language imposed by the Senator from New Jersey: It is a philosophy that Secretary Babbitt and his allies, even Director Rivlin plaintively objects to this provision as an unjustified provision allowing prepayment—perhaps contrary to the purpose for which farmers might be able to go back to farming without fear that this administration will succeed in driving them off their land.

Mr. DOMENICI. I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

Mr. DOMENICI. Mr. President, I yield my 30 seconds to Senator CRAIG in opposition to the amendment. Mr. CRAIG. Mr. President I hope we could oppose this amendment.

In the bill we are attempting to pass, we are asking reclamation projects to pay now upon a negotiated relationship with the Bureau of Reclamation, to return money to the Treasury now.

The Senator from New Jersey is striking that. We think we have crafted good law, which is exactly the intent of the original reclamation law, only we advance the opportunity to pay it out and then turn those authorities to the use of the property according to those with the projects. Mr. DOMENICI. Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. The assistant legislative clerk presented the following:

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<th>Yeas</th>
<th>Nays</th>
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<tbody>
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<td>60</td>
<td>39</td>
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So the motion to lay on the table the amendment (No. 3024) was agreed to.
Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to. Mr. LEAHY. I move to lay that motion upon the table. The motion to lay on the table was agreed to. The PRESIDING OFFICER. Who seeks retraction? Mrs. CHAFEE addressed the Chair. The PRESIDING OFFICER. The Senator from Rhode Island.

POINT OF ORDER

Mr. CHAFEE. Mr. President, the re-conciliation bill contains a provision which would put the Hyde language permanently into law. This is the first time that this has been done. The Hyde language has always appeared in annual appropriations bills which are open to modification.

This provision, subsection 2123(g) of the Social Security Act, as added by section 7191(a) in the reconciliation measure, does not produce a change in outlays or revenues and is not necessary to implement a provision that does change outlays or revenues.

I, therefore, raise a point of order under section 313(b)(1)(a) of the Budget Act against this provision.

Mrs. MURRAY. Mr. President, I rise in strong support for the amendment offered by the Senator from Rhode Island. Senator CHAFEE, to strike certain restrictive language from the Medicaid block grant portion of this bill, and I am proud to be a co-sponsor of this important amendment. I consider the inclusion of this language to be yet another attack on poor women waged by this Congress. I urge my colleagues to support this motion to strike.

The Medicaid block grant proposal approved by the Senate Finance Committee includes language which bars States from using Federal funds to pay for most abortions for poor women. The bill allows States to use Federal dollars to fund abortions only in cases of rape, incest, or where the mother’s life is in danger. This is not a new idea—we have seen restrictions like this one, known as the Hyde amendment, added to appropriations bills year after year. The key difference is that, now, this discriminatory ban could be made permanent—and I urge my colleagues to join us in ensuring this does not happen.

Including this ban as a component of Medicaid law is an unprecedented and alarming evolution in the attempt to restrict women’s access to abortion. And will have devastating effects on the women who rely on the Medicaid program to provide health care coverage. Even more offensive, the target in this case is low-income women, who deserve the same access to critical reproductive health services available to other women in our country. If we do not strike this language from the bill, we are allowing Congress to single out poor women, and this sends a very strong message to the women of this country. Voting to include the Hyde language tells these women—we do not care. Without providing coverage for abortion services, we will be sending low-income and poor women straight to the black market, and forcing those who are insured to choose unsafe alternatives and risky procedures—and make no mistake. Mr. President—women will die.

Women who receive an average of $400 a month from public assistance cannot raise the estimated $300 for a first-trimester abortion. What do you think a woman in this position will do? Will she divert money she should be spending on rent? Will she be forced to use the money she sets aside to feed herself or her child she already has? Or will she choose the cheaper, albeit un-sanitary and dangerous, alternative? I do not want to place poor women in the position of having to make this kind of choice. I am proud to be a co-sponsor of this important amendment.

I want to commend Senator CHAFEE for his commitment and his leadership on this issue. I know he tried to strike this restrictive and discriminatory language in Committee, but was unfortunately defeated. I thank him for trying again here on the floor, and I am proud to join in his efforts. I urge my colleagues to support this amendment. Thank you.

The PRESIDING OFFICER. The time for the debate is over.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, pursuant to section 904(d) of the Budget Act. I move to waive the Budget Act for this provision if included in the conference report on this measure.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—55

Abraham

Alford

Bennett

Biden

Brown

Breaux

Burr

Coats

S 16020

CONGRESSIONAL RECORD—SENATE

October 27, 1995
The CONGRESSIONAL RECORD - SENATE

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. DOLLE. Mr. President, how long was that last vote?

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have two unanimous consent requests that I believe will be acceptable. Senator MIKULSKI asked us to approve a unanimous consent request in her behalf, and Senator NICKLES has a similar one in terms of what we would be agreeing to.

How do I want to pose these unanimous consent requests? Correct my remarks. We want to do the same for Senator NICKLES that we did for Senator MIKULSKI.

I ask unanimous consent that it be in order for Senator NICKLES immediately after Senator MIKULSKI offers her motion to instruct, to move to instruct the conference with reference to the Hyde amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I send a motion to the desk on behalf of myself, Senator KASSEBAUM, Senator SNOWE, Senator BOXER, Senator FEINSTEIN, Senator MURRAY, and Senator MOSBY-BRAUN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] moves to instruct the conference on the part of the Senate to insist upon guaranteeing to the American public that the quality and safety standards set forth by the Clinical Laboratory Improvement Amendments of 1988 will be maintained by striking...
certain provisions in the House amendment relating to section 353 of the Public Health Service Act (standards that ensure quality in testing for risk factors such as a heart attack or stroke, kidney disease, prostate and colon cancer, gout and strep).

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Mr. NICKLES. Mr. President: the purpose is to instruct conferees to reject the provisions in the House bill to repeal the Clinical Lab Improvement Amendments of 1988. Before 1988, clinical labs lacked uniform standards. Dirty labs were tolerated. Tests were misread. Diseases were misdiagnosed. Staff was inadequately trained and overworked. People died of sloppy work.

What does the House bill do? It repeals CLIA ‘88 for all physicians’ labs except when the labs conduct pap smears. I urge conferees to stick with the Senate position and to reject the House repeal of CLIA ‘88. Let me tell all my colleagues what CLIA is. And why it is so important.

CLIA ‘88 set for the first time uniform quality standards for all clinical labs. I am proud that this law, which I authored, was passed with broad bipartisan support.

CLIA was passed in 1988 and implemented in 1992 to address serious and life-threatening conditions in clinical labs. To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to:

Turn back to the bad old days of misdiagnosis of the HIV/AIDS virus, when doctors were using inferior methods of reading slides: when people with the virus went undetected because the virus was mutating and was unrecognized by physicians.

Or turn back to a time when the lab technicians were overworked and under supervised; when slides were taken home, when dirty labs were tolerated; when lab technicians had little or no formal training, resulting in many diseases going undetected.

My colleagues, CLIA works. It works because CLIA saves lives.

Prior to CLIA, women were dying after having pap smears misread 2 or 3 years in a row.

Prior to CLIA, complex tests for heart disease, conducted improperly, put patients at risk of serious impairment or death. As we know, medical conditions like heart disease not detected early, not only are more expensive to treat, but result in serious disability or death.

Today, the stakes are high for quality lab tests and diagnosis. The need for quality testing for HIV and AIDS and other diseases that affects our communities is without question. We are talking here about a matter of life and death.

CLIA ensures quality testing and quality laboratories.

For the first time, all labs that perform similar tests must meet similar standards, whether located in a hospital, a doctor’s office or other site.

Americans must be assured that all labs are of the highest quality and performance standards.

CLIA saves tax dollars by curbing fraud and abuse.

An unexpected benefit of the CLIA law has been to weed out the most unscrupulous of labs that run scams and take advantage of the most vulnerable members of our society.

Today, CLIA is threatened. Why? The House Reconciliation bill repeals CLIA for all physician labs except when the lab conducts pap smears. No hearings, no review of the Inspector General’s report on the impact of CLIA, no opportunity for the public to respond.

The House even recognized the importance of CLIA by carving out one exemption—for labs that conduct pap smears.

My question is this: Does the Senate really want to tell somebody facing the prospect of heart attack or diabetes, that we do not care that your tests are performed adequately?

That we only care if quality standards are met for one particular test and not the entire battery of other life-saving tests being conducted? I do not think so.

Quality standards in labs are critical to saving lives. Uniformity is the key. Safe and effective standards are the goals of CLIA—or no matter where the lab is located—in a hospital, doctor’s office or other health setting.

My colleagues, the Senate position is right. The Senate wisely left CLIA alone.

Changes in CLIA should not be done in the context of Reconciliation, but should be done with careful and deliberate consideration in the Labor and Human Resources Committee.

CLIA is so important. We should not act hastily, and put lives in danger, put families at risk. I am not willing to take that chance. Are you?

My motion is simple. Stick with the Senate position. Leave CLIA alone.

I urge support for the Mikulski motion.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. NICKLES. Mr. President: I urge my colleagues to vote no on this motion, because the House had some provisions to allow some flexibility for physicians to conduct tests in their offices.

Frankly, we are talking about some simple tests: in some cases, strep tests or blood tests. CLIA, the Clinical Laboratory Improvement Act, drives up the cost of doing a bunch of these tests. In some cases, makes it prohibitive to do it, so they have to send off the test to the bigger cities. That wastes time. It wastes money, it makes health care a lot more expensive and dangerous in many areas of the country.

The PRESIDING OFFICER. Time has expired.

Ms. MIKULSKI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The PRESIDENT PRO Tempore (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 49, nays 50.

The result was announced—yeas 49, nays 50, as follows: [Rollei, Vote No. 541 Leg.]
The legislative clerk read as follows: The Senator from North Dakota (Mr. CONRAD), moves to commit.

Mr. CONRAD. I ask unanimous consent reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I ask unanimous consent on behalf of Senators HELMS that on roIcall vote 520 wherein he voted no be changed to aye.

Mr. CONRAD. Mr. President, we previously voted on my plan during consideration of the budget resolution. I received 39 votes. Today, if we held a vote, I might add a few votes to that total but I am under no illusion that I would prevail.

Mr. CONRAD. Mr. President, we previously voted on my plan during consideration of the budget resolution. I received 39 votes. Today, if we held a vote, I might add a few votes to that total but I am under no illusion that I would prevail.

Mr. CONRAD. I have a fair share balanced budget plan at the desk.

The PRESIDING OFFICER. The clerk will report.
So the amendment (No. 3026) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**AMENDMENT NO. 3027**

(Purpose: To amend the Civil War Battlefield Commemorative Coin Act of 1992, and for other purposes)

Mr. DOMENICI. On behalf of Senator LOTT and Senator JEFFORDS, I send another amendment to the desk.

This is to amend the Civil War Battlefield Commemorative Coin Act of 1992, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

"The Senator from New Mexico [Mr. DOMENICI], for Mr. LOTT, for himself, and Mr. JEFFORDS proposes an amendment numbered 3027.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 205, between lines 13 and 14, insert the following:

**SEC. 3008. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.**

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(2) USE OF AMOUNTS.—The amount transferred under subparagraph (a) shall be used for the acquisition of historical sites.

(3) ANNUAL ALLOCATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(4) TRANSFER TO STATE.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(b) CIVIL ACTION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(c) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(d) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(e) TRANSFER TO STATE.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(f) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(g) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(h) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(i) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(j) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(k) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(l) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(m) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(n) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

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(p) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(q) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(r) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(s) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(t) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

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(v) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(w) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(x) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(y) TRANSFER TO THE FOUNDATION.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).

(z) TRANSFER TO OTHER FOUNDATIONS.—Not later than 10 days after the transfer under subparagraph (a) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (a).


the Arctic National Wildlife Refuge, even oil in national storage facilities—as deficit reductions since the fact that such sales are actually money-losing. This budgetary innovation opened the floodgates for proposals to unload valuable Federal assets in return for the fast buck, often at fire-sale prices. Many of these proposals in fact, would lead to reduced revenues in the future, and higher deficits. This approach relies on political myopia—a simple-minded scoring of sales revenue within the limited budget window—and fails to withstand the straight face test. Only by railroadine these proposals through the Senate, under the very restrictive and controlled conditions of budget reconciliation, would many of these proposals ever have a chance of becoming law.

The Energy Committee’s title is loaded down with asset sales that follow the same pattern. While they produce deficit reductions in their first few years, as valuable assets are sold off, after a few years the pattern reverses and deficit reductions are turned into increases. In most cases the red ink continues far out into the future, easily dwarfing the deficit reductions of the early years. Thus asset sales are both short term and short sighted. Why we produce these budget resolutions in the first place? The reason is not to balance the budget. If it were, I am sure we could create some appropriate fiction which showed budgetary balance by definition.

But that is not what we were supposed to be doing here. We are supposed to be systematic. We are supposed to be honest. We are supposed to be consistent. We are supposed to address the substantive, structural issues which keep the Federal Government spending year after year out—more money than it takes in. So what do we have here, buried deep in this bill? We have a trick, a gimmick. We cut spending, by redefining what we mean for the first time since we gave this budget process teeth—with the passage of Gramm-Rudman—we can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve, and chalk up that deficit reduction. This asset sale formula leads to all sorts of questionable proposals. Because even outrageously low sales prices would still score as deficit reductions for the short period of the budget window, asset giveaways could receive a budget blessing. In fact, I doubt that any business accountant or economist would agree with this underlying budgetary premise—that liquidating public assets adds to public wealth. If I sell my stock portfolio and put the returns in my checking account, do I become wealthier? Have I protected my children? It may make sense to sell my stocks, but the transaction itself produces no wealth—except for my broker.

Consider the Arctic National Wildlife Refuge. We can lease the Refuge to oil developers and sell any oil that might be underground to them. We will get some money. The companies will get the rights to drill and if they find oil, probably it will be shipped to the Pacific rim and burned completely. Have we done a lot for our kids? You must be joking.

At best, we can claim for our children and is not necessary to implement the provisions of this budget. Therefore, I raise a point of order that the amendment violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered. The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll. The bill clerk called the roll. The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?
The PRESIDING OFFICER. On this motion, the ayes are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion fails.

Mr. DOMENICI. President, I move to reconsider the vote by which the motion was rejected. Mr. STEVENS. I move to lay that motion on the table. The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. STEVENS. Mr. President, on rollcall vote No. 539, I voted "aye." It was my intention to vote "no." Therefore, I ask unanimous consent to change my vote. It will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Alleged tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have been waiting to do the Biden amendment. I understand that it has been worked out. So I yield at this time to Senator BIDEN for the offering of his amendment, including the 30 seconds which is a part of my time.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3029

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment. The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2974.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I know of no legal or constitutionally binding reason why the Senate has to ever pass a reconciliation bill. It may have some budgetary consequences if the Senate does not. But as long as we are going to pass such a bill—and I assume that we will continue to do so for a while—we should lengthen the time for debate.

This is not a partisan amendment. It is not a political amendment. It is for the good of the institution——

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. BYRD. The budget process, and the good of the American people. I hope Senators will vote for this amendment.

The PRESIDING OFFICER. The Senator’s time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President and fellow Senators, it is with greatest respect and some degree of sorrow that I have to raise the Byrd rule against the amendment.

But Senator BYRD has made sure under the rules that you cannot change the budget or the Budget Act without sending the matter through the committee of jurisdiction. So this amendment will increase from 20 to 50 hours the time limitation on debate on future reconciliation measures; increase the time limitation from 10 to 20 hours on Senate consideration of conference reports; and, therefore, it violates the Budget Act.

I make a point of order against it.

Mr. BYRD. Mr. President, I believe the clerk read the wrong amendment.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Chair will withdraw the amendment 2974, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2942.

The text of the amendment is as follows:

S 16026

CONGRESSIONAL RECORD — SENATE

October 27, 1995

AMENDMENT NO. 2942

(Purpose: To amend the Congressional Budget Act of 1974 to extend the hours of debate permitted on a reconciliation bill)

Mr. EXON. Mr. President, the next in order, according to the list that we have agreed to, is recognition of the Senator from West Virginia for an amendment.

I yield four 30 seconds to him for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. BYRD. Thank the Chair. I ask that the amendment be called up at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2942.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I know of no legal or constitutionally binding reason why the Senate has to ever pass a reconciliation bill. It may have some budgetary consequences if the Senate does not. But as long as we are going to pass such a bill—and I assume that we will continue to do so for a while—we should lengthen the time for debate.

This is not a partisan amendment. It is not a political amendment. It is for the good of the institution——

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. BYRD. The budget process, and the good of the American people. I hope Senators will vote for this amendment.

The PRESIDING OFFICER. The Senator’s time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President and fellow Senators, it is with greatest respect and some degree of sorrow that I have to raise the Byrd rule against the amendment.

But Senator BYRD has made sure under the rules that you cannot change the budget or the Budget Act without sending the matter through the committee of jurisdiction. So this amendment will increase from 20 to 50 hours the time limitation on debate on future reconciliation measures; increase the time limitation from 10 to 20 hours on Senate consideration of conference reports; and, therefore, it violates the Budget Act.

I make a point of order against it.

Mr. BYRD. Mr. President, I believe the clerk read the wrong amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. BYRD. Thank the Chair. I ask that the amendment be called up at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2942.

The text of the amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. 904. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

(c) Subject to the availability of funds appropriated in addition to the benefits provided under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who——

(1) is buried in a national cemetery, and the interment of persons eligible for burial in a national cemetery is under section 2406(b) of title 38, United States Code, is provided for in addition to the benefits provided under this section, but only if the veteran died after active service in the armed forces, or

(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivider of a State.

The Secretary may pay to such State, agency, or political subdivision the sum of $150 as
a plot or internment allowance for such veteran, provided that payment was not made under clause (3) of subsection (b) of this section.’

Mr. BIDEN. Mr. President, following the admonition of Senator Long years ago, if the amendment is accepted, I have nothing to say.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment. The amendment (No. 3029) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXON POINT OF ORDER

Mr. EXON. Mr. President, the next item on the agenda is the Exon point of order with regard to the Byrd rule. In the Budget Act of 1974, I raise a point of order that several provisions—

Mr. BYRD. Mr. President, may we hear the Senator on this very important matter?

The PRESIDING OFFICER. The Senator from West Virginia is recognized. The Senator from Nebraska has 22 seconds remaining.

Mr. EXON. Mr. President, pursuant to section 313(d) of the Congressional Budget Act of 1974, I raise a point of order that several provisions—

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike “for” on line 4 of page 389 through “thereby” on line 19 on page 395.

Mr. BUMPERS. Mr. President, there is some confusion about what fair market value is in this bill. This amendment simply says that the mining industry, when they apply for patents, will pay fair market value.

Fair market value means just what it says: Land and minerals. Is that fair? All you have to do is vote ‘aye’ and the U.S. Government will receive fair market value.

The PRESIDING OFFICER. The Senator’s time has expired.

The Senator from Alaska is recognized.

Mr. MURkowski. Mr. President, this is the same item we have already dealt with in budget reconciliation. In fact, we already voted on this. It will be a repeat of the same amendment my friend from Arkansas proposed previously.

Given Senator BUMPERS’ rhetoric and the “we only print one-side of the issue” perspective of the national media, it is difficult to get a clear understanding of the significant mining law reform in the 104th Congress.

Senator BUMPERS, Secretary of the Interior Bruce Babbitt, and the national media are long on mining law rhetoric but short on substance.

Senator BUMPERS often argues the goal of mining law reform should be significantly revise patenting, to impose a royalty on the production of hardrock minerals, and to establish a mechanism to clean up abandoned mines throughout the country.

I happen to agree, but would quickly add one more essential point. Any reform bill passed by Congress should also aim to preserve the economic foundation of hardrock mining in this country—a critical industry that provides high-paying jobs for tens of thousands of American men and women.

It is on this point that legislation sponsored by mining critics like Mr. BUMPERS falls flat on its face. The punitive royalties and onerous environmental provisions he favors would make future mining on Federal lands nearly impossible.

Economic analyses of Senator BUMPERS’ comprehensive mining law reform legislation, including in-house studies done by the Department of the Interior, conclude that the punitive royalty supported by Senator BUMPERS would cost thousands of jobs. His legislation would shift exploration and development capital overseas, export U.S. jobs, decrease our tax base, and increase our balance of trade deficit.

I take issue with Senator BUMPERS’ assertions that members representing western mining States oppose mining law reform legislation. What we oppose is punitive legislation that would cause unnecessary economic harm to rural mining communities across working America.

In our effort to impose a royalty on the hardrock mining industry we should not presume that more is better.

One would hope that Congress would learn from history. In 1990, when Congress enacted the Omnibus Budget Reconciliation Act, we imposed a significant tax on luxury items, including high-end luxury yachts. Unfortunately, instead of taxing the rich, this recklessness destroyed the yacht building industry and eliminated thousands of jobs in this country.

In addition, we should learn from our foreign competitors. In 1974, British Columbia enacted the Mineral Royalties Act, which imposed royalties on mines located on Crown Lands and the Mineral Land Act which subjected owners of private mineral rights to royalties equivalent to those applied to Crown Lands. The result was a disaster.

During the period the royalty was in effect, no new mines went into production and several mines closed. Two years later, after thousands of mine-related jobs were lost, the royalty was repealed.

Should the hardrock mining industry pay a royalty to the Federal Government? The answer is yes. But let’s not make it so punitive that we destroy the industry or run it off-shore. We need to remember, just like Arkansas rice farmers, the domestic mining industry must compete in a worldwide market.

At the outset of the 104th Congress, I cosponsored the Mining Law Reform
Act of 1995 (S. 506), a bipartisan bill that recognizes the world of change in which we now live. The bill balances economic reality with the environmental concerns facing today's hardrock mining industry. I've actively pursued enactment of this legislation during the past several months.

It's worth noting that Secretary of the Interior Bruce Babbitt continues to insist on grossly devaluing the current shortcomings of the existing mining law. Yet he offers no reform proposal of his own. Why? Very simply, it is much easier to be critical than to be constructive.

It's no secret this is a divisive issue. In an effort to strike an acceptable compromise, the Senate Energy Committee included mining law reform provisions in its budget reconciliation package.

Those provisions represent significant compromise by both sides in this debate.

For the first time in history, the legislation would require miners to pay fair market value for the surface estate of patented land. For the first time in history, the legislation requires patented land used for nonmining purposes to revert back to the Federal Government. This would end the so-called federal land giveaway.

For the first time in history, miners would be required to pay a royalty to the Federal Government for the production of minerals on Federal land.

The Congressional Budget Office estimates the royalty will generate over $36 million dollars during the first 7 years. As new projects come into production, revenues received from the royalty are expected to increase to $25-$50 million per year.

Finally, for the first time in history, we could create an abandoned mine land fund (AML fund), establishing a mechanism to clean up old mines, many of which were abandoned in the 1800's.

The program will be financed by one-half of the royalty receipts. As royalty revenues increase, funds for the AML fund will also grow.

The legislation contained in the committee's reconciliation package answers the urgent call for increased Federal revenue without adding layers or crippling new Federal regulations or usurping the rights and responsibilities of individual States to oversee mining operations within their own jurisdictions.

Simply put, it would significantly revise the existing patenting system: impose a royalty on the production of minerals; and create a mechanism to fund the cleanup of abandoned mines: all while allowing Americans to enjoy the benefits of a strong domestic mining industry.

It's time for mining critics to stop the rhetoric and begin working to enact reform.

Senator BUMPERS' amendment is not a good faith effort at enacting responsible reform. His claims of a Federal land give-away cannot hold water in the face of the dual requirements in budget reconciliation of fair market value for the surface of patented lands and a royalty on the produced minerals from the subsurface.

The time is right for reform. The language in the budget reconciliation package represents comprehensive reform that ends the so-called Federal land giveaway and according to CBO, raises $148 million dollars.

I urge critics of the mining industry to support the mining law provisions in the budget reconciliation package and oppose the amendment being offered by Senator BUMPERS.

Mr. DOMENICI. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3030. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—55

Abraham Dole Mack
Ashcroft Demerici McCain
Baucus Bennett Frist McConnell
Brown Bingaman Gorton Murkowski
Bond Breaux Brown Nixon
Bryan Burns Grams Nickles
Brown Brown Bryan Reed
Campbell Brewer Bryan Santorum
Chafee Burns Hatch Richardson
Cheney Burns implementing the value of the decedent's gross estate.

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (c) of section 6166(e)(2) (relating to holding company stock treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) INCREASED CAP ON 4 PERCENT INTEREST ELECTION.—The Secretary shall

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

Purpose: To modify the estate tax reform proposals by striking the provisions excluding up to $3.5 million in business assets from the estate tax and by inserting a package of reforms specifically designed to ease the burden of estate taxes for true small businesses and family farms.

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an amendment numbered 3031.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSETLY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST ELECTION.—Subparagraph (b)(i) of paragraph (b) (relating to 4-percent portion) is amended by striking "$344,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC. RESTRICTIONS LIFTED.—Subparagraph (a) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate.

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (c) of section 6166(e)(2) (relating to holding company stock treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.

(2) by striking subparagraph (B), (C), and (D) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(3) by redesigning subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

On page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall
Mr. EXON. I yield 30 seconds if the motion is agreed to.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the amendment be dispensed with.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendement be dispensed with.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.
The PRESIDING OFFICER (Mr. STEVENS). This vote, there are 23 yeas, 78 nays. Three-fifths of the Senators as duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order has been sustained, and the provision fails.

Mr. EXON. Mr. President. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay the motion on the table was agreed to.

AMENDMENT NO. 3033

(Purpose: To limit the capital gains deduction to gain on assets held for more than 10 years and to impose a $250,000 lifetime limitation.)

Mr. EXON. Mr. President. I am pleased to report that two Senators have been successful in working together to offer two amendments in a joint form. The two Senators are Senator DORGAN and Senator HARKIN. I yield each of them 30 seconds as per the previous arrangement.

Mr. DORGAN. Mr. President. I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DORGAN. Mr. President. I ask unanimous consent that reading of the amendment be dispensed with. The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

"The Senate approved the Senate amendments to the bill and ordered the bill to the House with amendments.

The assistant legislative clerk read amendments introduced by Senator FEINGOLD at the table.

Mr. FEINGOLD. Mr. President. I ask unanimous consent that the reading of the amendments be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows: (General Rule—The amendment is set forth in the Record under "Amendments Submitted.")

Mr. DORGAN. Mr. President, this amendment is very simple. It changes the capital gains portion of the legislation. It would provide that if you hold an asset for 10 years, this would exclude up to $250,000 of capital gains—a exclusion twice as much benefit for the first quarter of a million dollars in capital gains. But that is what the limit would be. It actually saves $10 billion over the capital gains provisions in the bill.

I yield to Senator HARKIN for the explanation of the second provision in the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is the so-called Benedict Arnold amendment. Many of the very wealthy individuals who renounce their U.S. citizenship for tax reasons reside in the United States for up to 180 days. Under this amendment, such individuals would resume paying taxes in the United States as if they were resident aliens similar to U.S. citizens if they would stay in the United States for 30 days.

Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. Senator from New Mexico.

The Senator has 30 seconds.

Mr. DOMENICI. As to Senator HARKIN's portion of the bill, let me remind Senators. Senator MOYNIHAN had put this provision together. And it strikes an appropriate balance. This would essentially do away with the MOYNIHAN balance in this bill.

The Dorgan part of this limits the capital gains tax to a lifetime of $250,000. This would be incredibly difficult to keep track of and almost impossible to enforce if it was fair. I move to table both amendments. They are both en bloc. I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the amendment numbered 3033. This is on both amendments in tandem.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 33, as follows:

[Roll Call Vote No. 548 Leg.]

YEAS—66

Abraham          Glenn          Lugar
Ashcroft        Certen          Mack
Baucus           Gramm          McConnell
Benjamin        Gramm          McCain
Biden            Gramm          Massie—Braun
Bond             Grassley        Moynihan
Bradley          Gregg           Murkowski
Braun            Hatch           Nickles
Brown            Hasfield        Nunn
Bryan            Hoffin          Pell
Burns            Houston         Reid
Campbell         Hutchinson    Roth
Chafee           Inhofe          Santorum
Coats            Johnson         Simpson
Cooper           Kassebaum      Snowe
D’Amato           Kyl            Stevens
Doyle            Kyl            Thomas
Domenici         Levin           Thompson
Faircloth        Liberman        Thurmond
Frist            Levin           Warner

NAYS—33

Akaka            Exon            Leahy
Bingaman         Feingold        Mikulski
Bumpers          Feenstra        Meyer
Byrd             Harkin          Presler
Cohen            Hollings        Pryor
Conrad           Inouye          Rockefeller
Craig            Kempczinski     Sarbanes
Daschle          Kennedy         Simon
Dodd             Kerry           Snowe
Dorgan           Lautenberg      Wellstone

Mr. EXON. Mr. President, the next amendment is an amendment by Senator FEINGOLD, from Wisconsin, with regard to tax loopholes. I yield to him at this time the 30 seconds we have for each amendment.

The PRESIDING OFFICER. Senator FEINGOLD.

AMENDMENT NO. 3034

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for mercury, uranium, lead, and asbestos.)

Mr. FEINGOLD. Mr. President. On behalf of myself, Senator WELSTON and Senator BUMPERS, I send a amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. WELSTON, and Mr. BUMPERS, proposes an amendment numbered 3034.

Mr. FEINGOLD. Mr. President. I ask unanimous consent that the reading of the amendment be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 1. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION. (a) General Rule. (1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—(A) by striking "and uranium" in subparagraph (A) and (B) by striking "asbestos", "lead", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b) (3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines."

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos" if paragraph (1) (B) does not apply.

(4) Paragraph (7) of section 613(b) is amended by striking "or" in subparagraph (B) and by inserting "or" and by inserting after subparagraph (C) the following subparagraph:

(D) mercury, uranium, lead, and asbestos.

(b) CONFORMING AMENDMENTS. Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE. The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, this amendment eliminates the special 22 percent percentage depletion allowance for certain mine substances—asbestos, lead, mercury, and uranium.

It would allow mining companies to deduct only the cost of their capital investments as other businesses have to do. The amendment would save $33 million over 5 years, and the bulk of this tax break goes to lead mining. I do not think that makes any sense to have this kind of subsidy when State and local and Federal health officials and environmental agencies are spending precious resources for lead abatement and testing.
The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Mexico.  
Mr. DOMENICI. Mr. President, I am not going to use my 30 seconds. I just now make a point of order against the amendment under section 305(b)(2) of the Budget Act.  

The PRESIDING OFFICER. The Senator from Nebraska.  
Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on that motion to waive.  

The PRESIDING OFFICER. Is there a sufficient second?  

There appears to be a sufficient second.  

The yeas and nays were ordered.  

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.  

The assistant legislative clerk called the roll.  

The yeas and nays resulted—yeas 43, nays 56.  

Mr. MOYNIHAN. Mr. President. I ask unanimous consent that my vote on the Bradley amendment No. 3022 be changed from "yea" to "nay." This request will not change the outcome of the vote.  

The PRESIDING OFFICER. Without objection, its so ordered.  

The foregoing trolley has been changed to reflect the above order.  

Ms. MOSELEY-BRAUN addressed the Chair.  

The PRESIDING OFFICER. The Senator from Illinois is recognized.  

Ms. MOSELEY-BRAUN. On rollcall vote No. 548. I voted "no." It was my intention to vote "yea." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.  

The PRESIDING OFFICER. Without objection, its so ordered.  

The foregoing trolley has been changed to reflect the above order.  

Mr. DOLE addressed the Chair.  

The PRESIDING OFFICER. The majority leader is recognized.  

Mr. DOLE. Mr. President, I wonder if we can take a short reading on what may be happening tonight or tomorrow.  

I have had a discussion with the distinguished Democratic Senator, Senator Daschle, and I think he is prepared to give us a fairly open report on amendments left on that side.  

I will be happy to yield to the Democratic leader.  

Mr. Daschle. Mr. President, I have consulted with colleagues and I think we are down to five amendments. One of those may fall. We are within reach now. That is the total on our side.  

Mr. DOLE. Mr. President, I think on this side we have just the Finance Committee amendments. As I have indicated, there would be some additional debate on that—probably not more than 10 minutes will be allotted—because it is a 46-page amendment.  

I know the Senator from Florida was suggesting additional debate time.  

I say to my colleagues, if we can move as quickly as we can here and finish this bill at a reasonable time tonight, we will not be in tomorrow and we will not be in on Monday. I think it would depend on how quickly we can complete action on the bill.  

In addition, we are now looking at the Byrd-Exon package on different matters that have been subjected to the Byrd rule. We have not had that list very long, but we have people working on it now to match it against our list to see why some are left out and some are put in. It is a rather selective list.  

I suggest that may require some additional votes. I am not certain.  

Mr. Daschle. Would the majority leader yield?  

Mr. DOLE. I yield.  

Mr. Daschle. Did I hear the majority leader say if we can expedite this and come to final passage tonight on the bill, we would not be in session on Monday. Is that correct?  

Mr. DOLE. That is correct. We have some conference reports, but I think they can be disposed of very quickly on Tuesday morning.  

I have also discussed this with the distinguished Senator from West Virginia, who has a very important appointment on Monday. I want to try to accommodate every Senator where I can. I think I can.  

Mr. DOMENICI. Might I discuss the points of order that were submitted as a package by Senator Exon?  

Senator, as you might know, since it is a very selective list, it has caused a lot of concern on our side: some are just working with me to see what they want to do about it. The first step we are taking so we will know is, we are comparing your selected list with our list to first find out where there are any that we do not think should be in there.  

We would like to handle those in a way—by presenting those to you on the basis that if they do not properly belong in that we might drop them out. We are not sure there are a lot but there are some and they are of concern.  

I might reflect for a moment how detached the Senate cleared a reconciliation bill with how many votes? Mr. President. 87-12. That bill was put in the reconciliation bill and it has its own track going. It was never perfected by the U.S. Senate or by any committees in a way that made it absent the Byrd rule problems.  

In other words, we handled that on the floor. In turns when you put it in reconciliation, obviously it has a lot of points of order.  

We are concerned because most of the Senators on the other side of the aisle and this side voted for that bill. In fact, 87 voted for it. We might want to present to the Senate a package of those Byrd rule violations and see if you all want to waive them on the basis that they got 87 votes, or if you might want to reconsider since they got 87 votes.  

After all, we are the ones who vote on the 60-vote number that is required under the law. We can make that decision.  

It is not simple. Frankly, it comes late, which is no one's fault. Everybody on our side knew or should have known that, as they moved their committee work law. The Byrd rule was imperative. If we did not know it on the welfare bill—because we were not preparing the welfare bill for reconciliation.  

I think we may take a little time tonight because I have a lot of concern on my side for the Senators and I want to make sure they understand and get a chance to evaluate it. I do not think you would deny us that. We will give you adequate time on our major
amendment. This is major, major to some people on our side.

With that explanation, let us proceed and we will do the best we can.

Mr. EXON. May I have 30 seconds? I simply say that I will be glad to listen and look at anything that is presented to us. I simply point out to my colleagues that the points raised were the most serious, in my view, of the violations of the Byrd rule. We believe they are all valid points of order and the Parliamentarian has so told us.

We published a comprehensive list of all budget rule violations in yesterday's RECORD. This is no surprise deal. I certainly say that I will look forward to hearing from your side and, as usual, take a careful look at your proposition.

Mr. DOLE. I indicated before. I know that interpreted a section of our Tax Code too narrowly.

Mr. LAUTENBERG. Motion to Commit.

Mr. EXON. The next motion would be by the Senator from New Jersey, Senator LAUTENBERG.

I yield to him the 30 seconds I have as part of my time for his disposition.

Mr. LAUTENBERG. This is to come to the Office of the Finance Committee with instructions to report back on an amendment that would expand the deductibility of expenses that occurred in connection with business that one conducts in one's home.

In 1993, the Supreme Court decision drastically reduced the deductibility of items in connection with a home-office kind of business.

If there was a router or a telephone or an accountant and operated out of home, they would lose their deductibility because their clients would not have visited the home.

The PRESIDING OFFICER. The clerks will report.

The legislative clerk reads as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, inserting provisions to expand the deductibility of expenses incurred in connection with the business use of one's home and to offset the resulting costs by adjusting the corporate capital gains tax rate.

Motion to Expand the Home Office Deduction

Mr. LAUTENBERG. Mr. President, I rise today to offer a motion that would benefit home-based small business owners. My motion would send the Senate reconciliation bill back to the Committee on Finance and instruct the committee to insert language expanding the home office deduction. For a relatively small sum, to be offset by a modification to the corporate capital gains tax rate, Congress can remedy a 2-year-old court holding that interpreted a section of our Tax Code too narrowly.

Under current law, a taxpayer may only obtain a home office deduction in one of the following ways: First, if the office is the principal place of business for a trade or business; second, if the office is a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or third, if the office is physically separate from the home. The Supreme Court holding interpreted the principal place of business too narrowly, thus effectively denying this deduction to taxpayers unless their offices were physically separate from their homes or unless their clients physically visited their offices.

This court decision, and the IRS's subsequent application of it, have prevented taxpayers from obtaining a deduction. Congress intended it to have. The Government should not be providing a disincentive to those persons who have made the decision to work at home, a decision that was most likely based upon economic constraints and family considerations.

Women-owned businesses are being disproportionately hurt by this narrow interpretation of section 280A of our Tax Code. Women are more apt to work out of their homes than men and they should not be punished for choosing to work near their families. By voting for my motion, my colleagues will be sending a profamily message to their constituents.

Expanding this deduction would also help workers who have been displaced by corporate downsizing to remain in the workforce and avoid welfare by de-fraying some of their startup costs. They should be able to go into business for themselves.

The motion would also benefit the elderly and persons with physical disabilities who want to work but for whom commuting to traditional office space would be difficult.

Mr. President, expanding the home office deduction was endorsed by the recently held White House Conference on Small Business, which had participants from every state. The Committee on Finance held a hearing on this matter in June and it has strong support in the small business community. Legislation was introduced earlier this year that would accomplish the same goal I am seeking today. I would ask unanimous consent that a letter written to the Majority Leader DOLE by dozens of small business groups supporting this goal be inserted into the RECORD. I strongly urge my colleagues on both sides of the aisle to support my motion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HON. ROBERT DOLE, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE:

The undersigned associations strongly urge you to cosponsor S. 337, the Home Office Deduction Act. The original sponsors of the bill are Senators O'NEIL G. HATCH, MAX BAUCUS, CHARLES E. GRASSLEY, JAMES J. EXON, ROBERT J. KERREY, JOSEPH I. LIEBERMAN, BENNETT J. JOHNSON, and JOHN H. CHAFFEE.

S. 337 will promote economic growth and enhance property for the nation's workforce. It is designed to ameliorate the economic hardships caused by the 1993 U.S. Supreme Court decision in the Commissioner v. Soliman case.

Tens of thousands of persons stand to lose the home office deduction as a result of the Soliman decision. Particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent salespersons, plumbers, electricians, remodeling contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

S. 337 is an excellent response to the current spate of corporate downsizings which have resulted in the layoffs of tens of thousands of workers. They, like many other people faced with decision, particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent salespersons, plumbers, electricians, remodeling contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

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Mr. DOMENICI. Mr. President, this would increase corporate tax rates from 28 to 32 percent in order to expand this deduction of home business expenses, and I believe it adds new language to the bill by way of the home-business expenses.

Therefore, it is subject to a point of order on germaneness, I raise that point under the Budget Act.

Mr. EXON. Pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. The motion to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. The Senator from Nebraska.

The motion is not agreed to. The point of order is sustained.

Mr. EXON. Pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer this amendment in behalf of Senator STEVENS, Senator BREAUX, and myself. The motion to strike the amendment in behalf of Senator SIMON.

The PRESIDING OFFICER. The Senator will suspend.

The clerk will report the amendment. The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON, for himself, Mr. STEVENS, and Mr. BREAUX, proposes an amendment numbered 3035]. Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be included at the conclusion of my remarks. There being no objection, this material was ordered to be printed in the RECORD, as follows:

In summary, Mr. President, I believe that the provision in the legislation before disallowing the preferential tax treatment of ESOP loans is bad policy, and I urge support of Senator SIMON's amendment to strike it.

There being no objection, this material was ordered to be printed in the RECORD, as follows:

THE ESOP ASSOCIATION.

Washington, DC, October 17, 1995.

Re: Incredible Revenue Estimate on Repeal of ESOP Provision.

The revenue estimate for the proposed repeal of the ESOP tax provision known as the ESOP lenders interest exclusion (Code Section 133) is unbelievable for each year estimated.

Fact: the average ESOP leveraged transaction, where borrowed money is used to acquire stock for employee owners, is at most, $5 million per transaction.

Fact: at the highest, only 50 transactions a year since January 1, 1980, have used the tax incentive that is proposed to be repealed.

Fact: 50 times 5 equals 250. If the interest rate on the $250 million in ESOP loans is 10%, the interest paid on these loans is $25 million per year. The lender may exclude $12.5 million of this interest from its income.

The revenue loss is the Treasury is $25 million per year.

The revenue estimates that in the year FY '99, for example, that the revenue loss is $148 million is ridiculous. To reach this level of revenue loss, the amount of 50% plus ESOP transactions would be $8.6 billion per year.

Mr. President, has the experience of cases where employees acquired 50% or more, and use borrowed money. come close to this level.

The ESOP community in its wildest dreams would wish that there were that remain stagnant. employee ownership gives workers a means to share in the profits of their labor. In cases in which employee ownership is significant and in which voting rights are extended to employee owners, as required by section 133, it also can give workers an important voice in corporate decisions.

Beyond helping individual workers, there is significant evidence that employee ownership enhances the competitiveness of corporations. Several studies, including a 1995 study by Douglas Kruse of Rutgers University, have established a positive link between employee ownership and corporate performance. It is no surprise that workers are more productive when they own the fruits of that productivity. In a global economy, shouldn't we be doing everything we can to encourage corporate ownership to be more competitive?

Beyond these substantive policy reasons for striking the anti-ESOP provision in this legislation, I believe that there are budgetary reasons for striking this language. Most notably, it is my understanding that the revenue estimates attached to this provision are grossly overstated. No hearings have been held on the provision or its revenue effects, and the ESOP Association has done an analysis showing the anticipated revenue is extremely unrealistic. I ask that a copy of that analysis be included at the conclusion of my remarks.

In this summary, Mr. President, I believe that the provision in the legislation before disallowing the preferential tax treatment of ESOP loans is bad policy, and I urge support of Senator SIMON's amendment to strike it.
Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Whatever time we have we release.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? The yeas and nays were ordered.

Mr. DOMEhNICI. Whatever time we have we release.

Mr. DOMEhNICI. I move to reconsider the amendment and ask for the yeas and nays.

Mr. DOMENICI. There is a sufficient second.

Mr. DOMEhNICI. Whatever time we have we release.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—56

Abraham Faircloth Mack
Ashcroft Feingold McCaín
Bennett Flaxwell McConnell
Bond Gorton Moynihan
Bradley Gramm Murkowski
Brown Grams Nickles
Bryan Grassley Pressler
Byrd Hatch Roth
Campbell Hatch Sanford
Chafee Hastie Shelby
Chambliss Haslam Smith
Cohlen Hutchinson Simpson
Coverdale Inbide Smith
Craig Jeffords Snow
Craig Keating Snow
Craig Nelson Smith
D Amato Johnston Specter
DelWinc Klopthorne Thomas
Dole Kyle Thompson
Domenici Lott Thurmond
Dorgan Lugar Warner

NAYS—42

Akaka Ford Lieberman
Baucus Glenn Mikulski
Biden Glenn Moxley-Braun
Bingaman Hakti Murray
Boxer Heflin Nunn
Brayaux Henson Pall
Bumpers Inouye Pryer
Bryd Kennedy Reid
Coats Kerry Robb
Conrad Shaheen Rockefeller
Daschle Kohl Sarbanes
Dodd Lautenberg Simon
Ebeno Leahy Stevens
Feinstein Leventhal Walls

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. I move to reconsider the vote.

Hence. 103 days had passed between March 9, the day that the motion was first made to proceed to take up the bill, and final passage on June 19.

That was a very historic occasion. The vote on cloture was June 10, which was the 100th anniversary of Abraham Lincoln's nomination for a second presidential term. The 34 rollcall votes occurred on June 16, and the bill passed on June 19 by a vote of 73 to 27.

Mr. President, this is another historic occasion today. We are about to cast 35 rollcall votes, which will, of course, set a new record, the first such new record in 31 years.

I wish we would pause just a moment and think about the contrast between the bill that was before the Senate then and the bill that is before the Senate now and the 100th anniversary.

The vote on cloture in 1984 was a matter of 100 days. We had 36 rollcall votes, including Saturdays. There had been scores of amendments offered thereon and closure was finally invoked. And then more amendments were called up and additional votes occurred.

Think of the time that it took the Senate to dispose of that bill: 103 days. It was a historic bill. I voted against it. I may regret today. I have said that many times. But here we have a bill that has been before the Senate now 2 days—3 days: only 3 days—and we are limited to 20 hours on this bill—20 hours.

On that bill in 1964, we had 103 days: on this bill the limit is 20 hours and only 2 hours on an amendment, and the motion to proceed to this bill was non-debatable. But we are down to the point now where we have only 30 seconds to the side for debate on an amendment—30 seconds for debate. I am not criticizing either party or anybody in either party, in saying this. I am just concerned and discouraged by what we have in taking place here in the Senate on this bill.

It is a historic bill also, but we have gone from 103 days on a massive bill—one bill—to 29 hours on what consists of a number of bills, not just one bill. No hearings. No hearings on this bill. There were hearings by committees on parts of it, but no single committee had hearings on the whole bill. 1,949 pages.

I am concerned with what we are doing to the Senate, what we are doing to the legislative process. We are inhibited from calling up amendments. We have taken a very significant time to debate on this massive, comprehensive bill, a bill that may be even more far-reaching in some respects than was the civil rights bill of 1964.

I hope that we will, in the coming days and weeks and next year, consider revising the reconciliation process, that part of the legislative process...
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October 27, 1995

Mr. BYRD. Mr. President, How can I guarantee you that if we did not
have a reconciliation process, what we wanted to change would take 30 years.
Any piece of this amendment could be subject to the exact same 69, 79,
89 days as that legislation, which the distin-
guished majority leader brought to our attention. That is just
too long to change things and turn
the deficit around.

My amendment, which is at the desk.
I say to the leader, may I proceed
with my amendment?
The PRESIDING OFFICER. The Sen-
ator is recognized.
Mr. BYRD. Mr. President, I call up
my amendment, which is at the desk.

The PRESIDING OFFICER. The Sen-
ator will report the amendment.

The legislative clerk read as follows:
The Senator from West Virginia [Mr.
BYRD], for himself, Mr. Fbungold, Mr. Hol-
lings, Mr. Simon, Mr. Dorgan, Mr. Robb, and
Mr. Bumpers, proposes an amendment num-
bered 2974.

On page 1469, strike beginning with line 1
and all that follows through page 1509, line 9.

The PRESIDING OFFICER. The Sen-
ator from West Virginia is recognized.
Mr. BYRD. Mr. President, How can we
possibly tell the American people that the budget will be balanced in 2002
when we carry out the projec-
tions of this reconciliation bill? CBO's deficit estimates have been off the
mark by an average of $45 billion per
year since 1980.

Yet, we do not only being asked to accept CBO's projections for seven
years (as opposed to the usual five-year projections)—we are being asked to
then take a so-called "fiscal dividend"
that will occur if CBO's projections of
a balanced budget turn out to be cor-
rect seven years down the road and to
use that as the basis for enacting a
huge $245 billion tax cut for the
year in the bill and apply the savings
after the budget is actually balanced, but now.
Let us give Americans a tax cut now
and promise them a balanced budget
seven years from now. Why? Because it
makes good politics. It fooled the
American people in 1981. Why not do it
to them again in 1995? If we are serious
about balancing the budget, let us use
the spending cuts that will occur this
year and in the coming 7 years to cut the
deficit and only to cut the deficit.
The current drag race that is going on
between the administration and the
Republican Congressional leadership to see who can get to the tax cut finish
line first with the most is discouraging
and will. I fear ultimately result in a
repeat of the failures of Reaganomics—
a return to using the American people's
credit card to pay for never ending
deficits.

There is no fiscal dividend with
which to cut taxes. It is a hoax.

I urge Senators to reject the hoax by
voting for the pending amendment
which eliminates the $245 billion tax
cut from this bill and applies the mon-
ies to the deficit.

Mr. President, the amendment
speaks for itself. It eliminates the tax
cut in the bill and applies the savings
that are projected—and we know how
the projections have been in error so
many times, and that is not to be criti-
cal of CBO—but it applies the savings
to the deficit.

I thank all Senators for listening.
The PRESIDING OFFICER. The Sen-
ator from New Mexico.
Mr. BYRD. Mr. President, I think everybody understands this
amendment. It would strike all the tax
cuts that were provided for children,
those where we want to correct the
marriage penalty and the like.
Let me say to the leader, let us rather than talk about that. I say to Senator Byrd,
your speech was eloquent, and I thank
you for it. But I must suggest that you
did not help us put this kind of process
together, and we thank you for it, because if you had
did not helped us put this kind of process
together, we could never change the
country.

I guarantee you that if we did not
have a reconciliation process, what we
wanted to change would take 30 years.
Any piece of this amendment could be
subject to the exact same 69, 79, 89 days
as that legislation, which the distin-
guished former majority leader
brought to our attention. That is just
too long to change things and turn
things around.

So this year, we get an oppor-
tunity to proceed to change the
country and vote on very large, significant
substantial changes under the privilege
of a reconciliation bill.

The PRESIDING OFFICER. The Sen-
ator is recognized.
Mr. DOMENICI. I ask unanimous
consent that I be permitted to proceed
for 1 additional minute.

The PRESIDING OFFICER. Without
objection, it is so ordered.

Mr. DOMENICI. Mr. President, it is
true this is not the cleanest of proc-
esses, and I submit a clear reading
of the Budget Act. Which, again, the Sen-
ator from West Virginia had a very big
hand in drawing, that clearly it was in-
tended that when you put a budget of the
United States together, that the U.S. Congress would not avail itself
of delaying tactics to implement it. As a
matter of fact, the implementing of it
to make it reconcile with the budget
is from whence the word 'reconciliation'
comes.

So maybe it is being used for too
many things, and maybe it is too dif-
ficult, and perhaps we ought to fix that
process a bit. But I guarantee you, if
you do not find something to take its
place and abolish it, you will not
change America in important matters
for year after year after year.

I like the rules. But I think once a
year you ought to comply with the
budget of the United States and change
the laws to change the country, to
comply with the fiscal policy. That is
why we are here. It is difficult. I am
 glad that I am chairman when we
broke the record—I am not sure of
that, although I am very pleased with
the record. We won almost every vote
and, for that, I thank the Republicans.
I think they knew what they were vot-
ing about and for. Essentially, the
truth of the matter is that we have no
other way to get it done, as imperfect
as it is. I yield the floor.

Mr. BYRD. Mr. President, I ask for
the yeas and nays.

Mr. DOMENICI. I move to table the
Byrd amendment and ask for the yeas
and nays.

The PRESIDING OFFICER. Is there
a sufficient second.

There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The
question is on agreeing to the motion
to table.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there
any other Senators in the Chamber de-
siring to vote?

The result was announced—yeas 53,
nays 46, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—53

Abraham  Abraham  Faircloth  Faircloth  Lugar  Lugar
Achen  Achen  Friss  Friss  Mac  Mac
Bender  Bender  Gragg  Gragg  McConnell  McConnell
Bell  Bell  Gramm  Gramm  Murkowski  Murkowski
Bonds  Bonds  Grassley  Grassley  P;esser  P;esser
Brown  Brown  Hatch  Hatch  Roth  Roth
Burns  Burns  Heflied  Heflied  Saraworn  Saraworn
Chafee  Chafee  Helms  Helms  Shelby  Shelby
Coats  Coats  Hutchinson  Hutchinson  Simon  Simon
Cochran  Cochran  Inhofe  Inhofe  Stevens  Stevens
Coversell  Cover;ell  Jeffords  Jeffords  Thomas  Thomas
D'Amato  D'Amato  Kennedy  Kennedy  Thurmond  Thurmond
Dansie  Dansie  Kelch  Kelch  Thompson  Thompson
Dole  Dole  Lichtenman  Lichtenman  Wicker  Wicker
Domenici  Domenici  3
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NAYS—46

Amendment (No. 2974) was agreed to.

Mr. SIMPSON. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 15 seconds out of order.

Mr. BYRD. A little earlier I stated that Senator THURMOND and I were the only two Senators who voted on June 16, 1964, and I inadvertently overlooked Mr. PELL, who was here, Mr. KENNEDY, and Mr. INOUYE. Those three Senators also were here on that record date.

I thank the Chair.

Mr. EXON. Mr. President, when the vote was announced on the last amendment, was that reconsidered and tabled?

Mr. EXON. As near as I can tell, and I stand to be corrected if I am in error, we have three amendments and possibly one that I do not think will be offered.

At this time, then, to move along, I ask unanimous consent that her amendment be read as follows:

Mr. JOHNSTON. Mr. President, according to the Mineral Management Service, this provision which Senator WELLSTONE would seek to knock from this bill would produce 320 million barrels of oil in the central gulf which would otherwise not be produced.

I need remind my colleagues that the Mineral Management Service is part of the Department of the Interior. Bruce Babbitt, a Senator who has never been known as being in the pocket of the oil companies—this is backed by Secretary Babbitt. It is backed by Secretary O'Leary.

I ask unanimous consent that her letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The PRESIDENT OF THE SENATE. The Clerk read the following:

The SECRETARY OF ENERGY.


Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate.

Washington, D.C.

DEAR SENATOR JOHNSTON: The Administration reiterates its support for the title providing deepwater royalty relief to the central and western Gulf of Mexico.

In the energy policy plans, "Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy" in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, "the Nation must make the most efficient use of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the 21st century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources."

In furtherance of this objective, "The Administration's policy is to improve the economic competitiveness of domestic energy production by reducing costs, in order to lessen the impact on this industry of low and volatile oil prices."

One of the ways indicated to lower "pollution costs is...exemptions from federal income and other fiscal incentives to support our domestic energy resource industries."

Finally, the "Strategy" specifically targets the opportunities the Administration perceives to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico.

One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly deeper water projects, which are a key to timely access to this important resource.

The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help unlock the estimated 4 billion barrels of oil that have been left in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the energy industries. (emphasis in original, page 164)

The royalty relief provision in S. 395 as adopted by the conference committee is targeted to deepwater projects that the Administration supports. For existing leases, it targets relief for only those leases that would not have been offered without the relief. For new leases, the provision is targeted for a specific time period for only a specific number of barrels of production and could be offset by increased bonus bids.

The Minerals Management Service has estimated the revenue impacts of new leasing section 304 of S. 395 for leases in the central and western Gulf of Mexico between 1996 and 2000. The deepwater royalty relief provisions would result in increased bonuses of $485 million—$135 million in additional bonuses on tracts that would have been leased without relief; and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million. If the time value of money is being considered, however, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2075. But again, the Treasury would gain the present value of money, this offset in today's dollars is only $220 million. Comparing this to the gain we have from the bonus bids as a net present value basis, the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period as such as that proposed in S. 395, would help ensure marginally viable OCS projects to be developed, thus providing additional energy. Jobs and other important benefits to the country. However, as noted, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2075. But again, the Treasury would gain the present value of money, this offset in today's dollars is only $220 million. Comparing this gain we have from the bonus bids as a net present value basis, the Federal government would be ahead by $200 million.

In contrast, in the absence of thorough reform of the 1872 Mining Law, hard rock mining projects on Federal lands can be initiated without any royalty. The Administration believes that this never required to pay a royalty on the resources developed. The end result is that the value of the benefits from the resources developed. The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to expansion of domestic energy resources, enhance national security, and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.

The PRESIDENT OF THE SENATE. The Clerk will report.

Mr. SIMPSON. I move to reconsider the vote.
The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. Yeas and nays were ordered.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the section of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll. The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 28, nays 71, as follows:

[Roll call Vote No. 553 Leg.]

YEAS—28

Boxer
Bradley
Bryan
Bumpers
Byrd
Cohen
Cochrane
Collins
Conrad
Craig
Coats
Chafee
Campbell
Burns
Brown
Breaux
Bingaman
Bennett
Baucus
Ashcroft
Akaka
Abraham

NAYS—71

Exon
McCain
Feinstein
FEinstein
Gorton
Graham
Gramm
Graham

The PRESIDING OFFICER. On this vote the yeas are 28, the nays are 71. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken and the amendment fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

MR. DOLE. I move to lay that motion on the table.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment be dispensed with.

The PRESIDING OFFICER. The amendment is as follows: On page 187, line 3, and on page 187, line 22, strike "5" and insert "10." Mr. DOMENICI. Mr. President, I yield back any time I have on the amendment.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. The amendment is as follows:

The amendment is agreed to.

Mr. EXON. I yield back my time.

The amendment is agreed to.

Mr. EXON. I yield back my time.

The amendment is agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are still examining the different items of the package, the so-called Byrd-Exon package on the Byrd rule.

I wonder if we might proceed on the Finance Committee amendment. Senator ROTH I think is prepared to proceed on that amendment. We would be prepared to enter into some lengthier time agreement than the 10 minutes we were allotted under yesterday's unanimous-consent agreement. We would like to keep it as tight as possible, but we understand the Senator from Florida in particular wanted some additional time.

Mr. DASCHLE addressed the Chair. The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I have consulted with a number of our colleagues, and I think that a half-hour on either side might accommodate the needs of Senators interested in participating in debate on the Roth amendment if that would accord with the majority leader.

Mr. DOLE. Half-hour on each side.

Mr. DASCHLE. Half-hour on each side.

Mr. DOLE. I ask unanimous consent there be an hour equally divided.

The PRESIDING OFFICER. Is there objection to the hour equally divided? Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I had been trying to clear a correcting amendment to the D'Amato amendment that had heretofore been adopted. I understand it has been cleared on both sides.

Mr. EXON. It has been cleared on both sides.

Mr. DOMENICI. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 10337.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The amendment is agreed to.

Mr. EXON. I yield back my time.

The amendment is agreed to.

Mr. BYRD. Mr. President, buried in this gigantic reconciliation bill is a provision. Section 12874, that would amend a carefully wrought bipartisan measure enacted in 1992 to protect the health benefits promised to retired coal miners and their dependents. This provision would jeopardize those health benefits and put the 92,000 retired miners and their dependents at risk. I understand this provision was added at the last minute and is a modification of a bill. S. 878, which has not been the subject of hearings by the Finance Committee. Hiding this provision, that would have on the floor a Congress that has not received careful review or consideration, in a 1,949-page bill is an outrage.

Section 12874 represents a major policy change that would overturn existing state and case law in order to provide a two-year tax break to a select group of coal companies at the expense of other coal companies. In so
doing, this provision would not only change a major provision of the Coal Act of 1992, it would also overturn dozens of district and Federal court decisions.

Under the 1992 Coal Act and case law, companies are required to pay health insurance premiums for their former workers, with whom they contractually committed to pay lifetime health benefits. Section 12874 would relieve certain coal companies from this commitment by allowing them to forego these premiums for 2 years.

According to the Congressional Budget Office, over the 7-year period 1996-2002, this provision would produce a net increase of only $8 million.

In light of the fact that Section 12874 represents a major policy change, which would overturn existing statutory and case law, while having a minor budgetary impact of only $8 million over 7 years, it is clearly a violation of section 313(b)(1)(D) of the Congressional Budget Act of 1974, which reads as follows:

A provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision.

Therefore, it is my view that Section 12874 should be stricken from the reconciliation bill as being in violation of the Byrd Rule.

In addition to the blatant violation of the Byrd Rule, Mr. President, this provision is just bad policy. The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation is a direct threat to the health and financial status of the Combined Fund, a threat about which the Coal Act averted this crisis by requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

Miners' health benefits have a unique history in that the federal government has played a role since the coal strike of 1946. Over the years, miners gave up increases in wages and pensions and in return were promised lifetime health benefits by the coal companies. Health benefits are important to coal miners. The coal miner lives dangerously, working in cramped, hazardous conditions. The brutal nature of mine work and the risks to miners' health that go hand in hand with this labor make good health benefits extremely important to miners.

The provision included in the Reconciliation legislation would, for two years, provide relief to 26 companies, those companies that were not injured as result of the 1988 National Bituminous Coal Wage Agreement, by reducing the premiums they are required to pay to the Combined Fund if it is calculated that the Fund has a surplus. The calculation of a surplus would be done on the cash method of accounting, not the accrual method, and the surplus would be based on the current year's benefits and administrative costs. Requiring the calculation of a surplus using the cash method of accounting is unwise, could lead to a misleading statement of surplus, and is not the standard practice with regard to health plans. Further, the provision provides that if a shortfall in the Fund occurs, all companies' premiums would be increased, even though only a specific group of companies would get relief.

The financial status of the Combined Fund is precarious. Guy King, the former chief actuary for the Health Care Financing Administration, in an analysis of the Combined Fund, suggests that all of the net assets in the Fund will be necessary to pay benefits for the next ten years. The annual premium increase rate is insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for the Fund to remain solvent in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the financial status of the Fund. Given the uncertainty surrounding the Combined Fund, I must adamantly oppose this provision to relieve certain companies of their responsibility to their former employees.

Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the non-budgetary components of the provision. These components are merely incidental to the non-budgetary components of the provision.

The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation is a direct threat to the health and financial status of the Combined Fund, a threat about which the Coal Act averted this crisis by requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

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Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the goal of policy change. In addition, this provision does not adequately safeguard the financial status of the Combined Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. I hope that the Senate will vote to remove this ill-advised provision from the Reconciliation legislation.

The PRESIDING OFFICER. Who yields time?

There will be 30 minutes on a side. The Chair asks the Senate to be in order.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does the Senator desire on the amendment? We have 30 minutes on our side.

Mr. ROTH. Five minutes.

Mr. DOMENICI. I yield 5 minutes to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Will the Senate please be in order.

(Purpose: To make various changes in the spending control provisions in the matter under the jurisdiction of the Committee on Finance)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposed an amendment numbered 3038.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.
The PRESIDING OFFICER. Without objection, it is so ordered.
(The text of the amendment is printed in today's Record under "Amendments")

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROTH. Mr. President, this amendment includes modifications in Medicare and Medicaid. The first change in the Medicare provisions establishes a fully prospective payment system for skilled nursing facilities within 2 years.

Now until this new skilled nursing home prospective system is implemented, the amendment changes how Medicare will pay nursing homes for nonroutine services. The change establishes payments based on each nursing home's cost in 1984 with an inflation adjustment.

The second change in the Medicare provisions is a slower phase-in for changes in Medicare's indirect medical education payments to teaching hospitals.

Mr. President, this amendment also makes several modifications to the Medicaid provisions in the bill.

The PRESIDING OFFICER. Would the Senator suspend?

Would the Senators take their conversations off the floor, please?

Mr. ROTH. The—

The PRESIDING OFFICER. Will the Senator suspend? The Chair will start naming Senators. Please take the conversations off the floor.

Mr. THURMONT. That is right.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. The first modification would modify the Federal quality standards for nursing homes under Medicaid. We have worked with Senator COHEN on this modification, and he will explain those changes. The modification would reduce the costly and duplicative requirement that States perform predmission screening and annual resident review. In addition, a modified approach to the nurse aide training requirements would make it easier to train nurse aides in rural areas.

The amendment would allow States with equal or stricter nursing home standards to seek a waiver from the Secretary of HHS to use the State standards in lieu of the Federal standards. However, the Secretary of HHS would continue to enforce State compliance with the Federal standards. States not in compliance with the Federal standards would be assessed a penalty of up to 2 percent of their Federal Medicaid funds.

Second, the amendment creates a Medicaid-Medicare integration demonstration project to permit Medicare and Medicaid funding to be combined to provide comprehensive services through integrated systems of care to elderly and disabled individuals who are eligible for both programs.

Third, the amendment creates a separate set-aside for low-income Medicare beneficiaries. This set-aside would be in addition to the set-asides already in the bill for pregnant women and children, the disabled and the elderly. Under this provision States would be required to spend a minimum amount on Medicare premiums for low-income Medicare beneficiaries. The amount States must spend must be at least 90 percent of the average percentage spent on Medicare premiums under Medicaid over fiscal years 1993 through 1995.

Fourth, the amendment requires States to apply the same solvency standards for health plans under Medicaid as the States set for health plans in the private sector.

And fifth, the amendment modifies the distribution formula under the Medicaid program.

Let me start by saying we have worked very hard to improve the Medicaid formula—

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. DOMENICI. I yield 2 additional minutes.

Mr. ROTH. To improve the Medicaid formula which was adopted by the Finance Committee. Under the modification, each State's base would be the higher of, first, fiscal year 1995 spending, minus all payments to disproportionate share hospitals; second, fiscal year 1994 spending, including all disproportionate share hospital payments, plus 3.4 percent; or, third, 95 percent of fiscal year 1994 expenditures minus all disproportionate share hospital payments.

Each State's funding would increase by 9 percent for fiscal year 1995. And beginning in fiscal year 1997, each State's base would be increased by a growth rate determined by a formula subject to floors and ceilings. The ceilings have been modified by this amendment. We have tried to give more funds to the high-growth States by raising the high-growth States to 2 percent, and States would be able to carry over a credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

Finally, the amendment strikes section 216 of the bill limiting causes of action under Federal law.

Finally, the provisions in this amendment are paid for by adopting the 2.6 percent cost-of-living adjustment recently.

Thirty seconds?

Mr. DOMENICI. Fine.

Mr. ROTH. Recently announced by the administration for 1996 for programs under the Finance Committee's jurisdiction and updated by the CPI-W. The CBO baseline assumes the CPI-W would be 3.1 percent.

Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair. Mr. President, could I seek 1 minute from the manager?
the program for the beneficiaries. Medicare will have more demands upon it than ever before when the baby boom generation begins retiring around the year 2000. We are told that Medicare is underfunded or bankrupt because of the built-in automatic growth of the program which, as I mentioned, has been based on medical price inflation and is one of the principal contributing factors to approaching insolvency. Rather than retrenching the program, as it would, at a rate of 10 to 16 percent per year, we will hold the line at an average of 6.2 percent. I repeat, the program will grow by an average rate of 6.2 percent a year.

This translates into some important numbers that Medicare beneficiaries need to know. In 1995, Federal spending on Medicare will reach $157.7 billion. By the year 2002, the program will have grown to 52 percent to $207.5 billion. This equals for every beneficiary an annual increase in the value of their benefit from $4,800 in 1995 to over $7,000 in 2002. This is growth, Mr. President, not cuts, and we should make every effort to make sure that our constituents fully understand.

Our next priority has been to actually improve Medicare benefits, and much, much work has gone in to determining our course. Should we pursue another top-down big government strategy as we did in 1965, or should we return to the roots of the program and follow the private sector? At the heart of both the best private employers are able to offer their employees a variety of health care choices—choices which best suit the needs of their employees and their families. The Congress is now striving to do the same for Medicare, putting together an array of health insurance options second to none. Older and disabled Americans have earned their Medicare entitlement, and it is our responsibility to make sure we improve it in the best possible manner.

Older people being what they are—and I am over 65 myself so I can say it—many are naturally reluctant to follow the private sector. In my State of Virginia, which has a predominant HMO market, many are naturally reluctant to participate in the marketplace. They are investors in the modern health care marketplace. They are customers. Our job is to lead the way in demonstrating that, depending on the flow of business, we will yield 5 minutes to the Senator from West Virginia.

Mr. ROBERTS will speak on that. Medicare, for example, was the only program to rate an A in the Health magazine consumer survey. We must insist that any reform maintain the track record and avoid the last-minute amendments by the chairman or leaders of the House and Senate which were inserted in the Medicare bill to meet whatever pressure was generated by the leaders. Medicare, we must insist, is not to be used as a piggy bank to pay for other programs.

We do not have unlimited funds. We must talk about the most efficient and effective way of using them. The amendment weakens the Medicare program, and we must insist that any reform preserve what has been a signature achievement of this program. I repeat, Medicare is not to be used as a piggy bank to pay for other programs. Medicare is its own account. The beneficiary would then be given an annual open season to join if they feel that it is right for them. All options will include, for a reasonable copayment, the right to see a favorite physician who might not be in their local plan. Perhaps the most innovative option will be access to newly available medical savings accounts (MSA's).

In my State of Virginia, which has a predominant HMO market, Medicare's have prompted a great deal of interest and support by doctors and patients alike. Medicare would offer a catastrophic health insurance policy which, for example, would cover all costs over $3,000 per year. Remember that today, Medicare hospitalization begins to run out after 60 days in the hospital. The beneficiary would then be given an annual option by curtailing exorbitant growth, and open the door for Medicare beneficiaries to the modern health care marketplace. We should insist as expatriates to protest what is underneath this amendment, a bill that will cut Medicare and Medicaid by unprecedented amounts of money. No last-minute amendments by the managers are going to soften the blow of this combination of Medicaid and Medicare cuts put together. It is a stunning—stunning—cut.

I think there is a number of reasons to reject this bill. I think I need to warn my colleagues that the amendment under discussion today is underhanded. It is underhanded because the amendment magically creates a $1,500 a year which they have no authority to use. The only possible out-of-pocket expense is the out-of-pocket limit. Medicare fund would be rolled over to the next, and would cover all costs over $3,000 in the MSA in just a few years. While an MSA will not be suitable for everyone, it is likely to have a real impact on the health care marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers want their business. Perhaps the most innovative option will be access to newly available medical savings accounts (MSA's).

Moneys not utilized by the end of the year could be rolled over to the next, without tax consequences, or withdrawn as taxable income for personal use. The only possible out-of-pocket expense is the out-of-pocket limit. Medicare fund would be rolled over to the next, and would cover all costs over $3,000 in the MSA in just a few years. While an MSA will not be suitable for everyone, it is likely to have a real impact on the health care marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers want their business.

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Mr. PRYOR. Mr. President, I thank the distinguished manager for recognizing me and allowing me a few moments.

This morning, by a vote of 51 to 48, the U.S. Senate voted in a bipartisan way to restore the OBRA 1987 nursing home regulations. They have worked well. They have served residents well. They have served the taxpayers well, and I am strongly committed to achieving that end once again.

Mr. President, with all due respect to the distinguished manager's amendment that we now have before the Senate, even if a State could operate under a waiver and opt out of the Federal standards, there is no guidance whatsoever as to what the rules or the guidelines would be in granting that determination.

Also, Mr. President, there is a major flaw in this amendment. I say with all due respect. I am just wondering if the distinguished manager knows under what jurisdiction the Director of HCFA or HHS would determine that a state's standards were sufficient to opt out of the Federal standards; there is no guidance whatsoever as to what the rules or the guidelines would be in granting that determination.

Also, Mr. President, there is absolutely no guidance whatsoever as to what the Secretary must do to decide whether or not a State could get a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

Mr. President, last month, it was made clear that the regulations that we adopted on a bipartisan basis in 1987 have worked and they have worked well. I do not know of one Member on either side of the aisle who can argue against that. I am very hopeful that when this process is over, that we will have the very strongest standards, and I truly believe that those strongest standards were supported this morning by the vote of 51 to 48 for the so-called Pryor-Cohen amendment adopted by the U.S. Senate.

I hope that will ultimately be the language that will be retained and that we will follow in the decades to come.

Mr. President.

Mr. PRYOR. Mr. President, I yield 4 minutes to the manager.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Without objection, Mr. Kennedy is recognized for 4 minutes.

Mr. KENNEDY. Mr. President, Mr. Pryor just said, in his introduction, that this amendment is a disgrace. I ask unanimous consent that I be permitted to change my vote.

Mr. PRYOR. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment purports to improve a very bad bill, but it does nothing, absolutely nothing, to improve the fundamental problem. This Republican program slashes Medicare and Medicaid to pay for tax cuts for the wealthy. It sacrifices working families, children and senior citizens on the altar of sweetheart deals and tax breaks for the powerful special interests.

This amendment symbolizes what is worst about the 2,000 pages of the bill as a whole. Every time you turn one of those pages, something ugly scuttles out. Look at what is in the so-called perfecting amendment.

It weakens the nursing home standards we adopted just this morning. This morning we restored the strongest standards that are in current law and that the Republican bill would have repealed. This evening, our Republican colleagues are trying to water those standards down.

The Medicaid formula changes are the last piece needed to put together a majority. Vote against seniors. Vote against children. Vote against families. For which a State could operate under a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

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Mr. President.

Mr. PRYOR. Mr. President, I yield back the remainder of my time.
he says, "Well, maybe I made a mistake." Well, he did make a mistake. We are returning IRA's to working middle-class families. And we are doing while doing something about the marriage penalty. We always complained about that. There has not been anybody here on the floor who has run and did not say we need to do something about the marriage penalty. That is $12 billion in relief—a move in the right direction. And in student loans, a billion dollars to help pay for the interest.

Mr. President, this is a good bill, and it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I want to take this opportunity to address some of the Medicare and Medicaid provisions of this budget reconciliation legislation.

For the past few months, the debate on Medicare has been rife with partisan finger-pointing. Democrats accuse Republicans of ravaging Medicare. While Republicans counter with charges that the Democrats are failing to restore solvency to the program.

But the simple fact is that Medicare is in trouble. And we are doing something about it. We cannot take the easy route and pretend to senior citizens—the looming crisis. But we cannot take the easy route and pretend to senior citizens—on Medicare beneficiaries—that the crisis will go away if we simply look the other way.

Changes in Medicare are crucial if it is to survive at all for current and future senior citizens. The Republican budget plan takes the tough steps necessary not only to restore solvency to the trust fund but also to prepare Medicare for the 21st century.

The President and congressional Democrats claim that $90 or $100 billion in savings proposed in this bill cut too far and too deep. What the Democrats have proposed would certainly be more politically palatable. But their proposal fails far short of the reforms that will be necessary to prepare Medicare for the future.

Guy King, the former chief actuary for the Health Care Financing Administration, agrees with the Democrats that $90 billion will keep the trust fund solvent until 2006. But, by 2010, the year the baby boomers begin to retire, it will leave Medicare $309 billion in the red. It will be difficult enough to cope with this tidal wave of retirees when Medicare is solvent. It will be impossible if the program is over $300 billion short.

Like the Republican budget, Medicare spending will continue to grow at an average annual rate of 6.2 percent over the next 7 years—less than the current 10 percent rate of growth, but still twice the rate of inflation. In fact, per beneficiary spending in Maine will increase by almost $2,000 over the next 7 years.

Equally important to controlling growth, the proposal will give beneficiaries more choice. The "Medicare Choice" plan contained in the bill closely resembles the Federal Employment-based Health Insurance program. Each year, Medicare beneficiaries will be given information on a number of plans available in their areas. They will then be able to elect to remain in the traditional fee-for-service plan or they can choose among “preferred provider organizations,” such as health maintenance organizations, physician and hospital sponsored networks, or medical savings accounts.

The proposal does include, for the first time, a "affluence test" that would require the wealthiest beneficiaries to pay a fairer share of the costs of the Medicare program. Taxpayers currently subsidize about 70 percent of the costs of Medicare beneficiaries' part B premium cost. The Republican plan phases out these taxpayer subsidies for upper-income retirees and eliminates them completely for individuals with incomes over $100,000 and couples over $175,000. I believe that this is fair. There is no good reason why a working family with an income of $40,000 should be subsidizing wealthy retirees earning more than four times as much. Further, the vast majority of Medicare beneficiaries will not be affected by the change—about 98 percent of all Maine Medicare beneficiaries have an income below the "affluence test" threshold.

I am very pleased that this budget bill includes tough anti-fraud legislation that I introduced earlier this year to help rid Medicare of the fraud and abuse that robs the program of as much as $15 billion a year.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently. Increases in fines and penalties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system.

More importantly, the bill establishes an anti-fraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors by flowing additional fines and penalties collected from health care fraud efforts to law enforcement.

According to the Congressional Budget Office, these provisions will yield $1 billion in scorable savings to Medicare and Medicaid for every senior citizen. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The proposal also makes significant reforms in the Medicaid program. Like Medicare, Medicaid is one of our fastest-growing entitlement programs. Over the past few years, Medicaid spending has increased at an alarming rate. Between 1988 and 1993, program costs have more than doubled. From 1990 to 1992, Medicaid grew at an average annual rate of 28 percent, while private insurance costs grew at less than one half that rate.

The current growth in Medicaid spending clearly cannot be sustained by either Federal or State budgets. In Maine, 22 cents out of every dollar spent by the States was to pay for Medicaid, and next year it may be even more. We simply cannot sit back and watch the program consumer get bigger and bigger bites out of the taxpayer dollar each year.

Under this budget plan, the growth in Federal Medicaid spending—which is now just over 10 percent a year—would be limited to a 7.2 percent growth rate in 1996, 6.8 percent in 1997, and 4 percent for the remaining 5 years. The plan achieves the necessary savings by converting Medicaid into a block grant which would guarantee only a lump sum payment to the States with very little in the way of oversight.

While I strongly support increased State flexibility with regard to Medicaid, I believe that some Federal standards should remain in place to help ensure quality and to maintain some protections for vulnerable populations. This is especially important given the fact that the Federal Government will be committing nearly $800 billion in Federal dollars over the next 7 years to the Medicaid program.

Therefore, I worked to ensure that guarantees of coverage for low-income children, pregnant women and the disabled—including the disabled elderly—continue under the Medicaid program. I am pleased that the bill as amended by the Senate includes provisions to provide these minimum guarantees to our vulnerable citizens.

I am also pleased that the final bill includes provisions that I and other moderate Republican Members authored, namely, a requirement that States continue to pay Medicare premiums for low-income Medicaid beneficiaries and requirements that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that this package provides has incorporated several of the provisions included in my legislation, the Private Long-Term Care Family Protection Act of 1995 to improve access to long-term care services. The legislation is aimed not only at improving access to care but also at looking forward in creating incentives for older Americans and their families to plan for future long-term care expenses and
removes tax barriers that stifle the private long-term care insurance market. As Chairman of the Senate Special Committee on Aging, I know the obstacles and challenges that older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long-term care.

Sadly, many families are under the erroneous impression that their current insurance or Medicare will cover necessary long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is lacking. Long-term care is often financed out-of-pocket.

This bill encourages personal responsibility in a way that makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care providers. Quality products will be affordable and accessible to more Americans.

A strong private long-term care market will not only give individuals greater financial security for their future care, but also ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons need long-term care services.

In addition to providing better access to long-term care services, this bill incorporates a demonstration project I introduced last year to explore ways to better integrate long-term care with the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a maze of complex and often incompatible policies and rules.

The demonstration project included in this bill will allow up to 10 States to pool Medicare and Medicaid dollars for the purpose of creating a more balanced and cost-effective acute and long-term care delivery system. These projects will help States develop ways to better manage the care of high-cost beneficiaries and offer elderly and disabled Americans full integration of services, including case management, preventive care and interventions to avoid institutionalization whenever possible.

I am also very pleased that this bill now maintains the tough Federal standards that are in place to protect elderly and disabled individuals living in nursing homes. Placing a parent, spouse, disabled child, or other loved one in a nursing home is one of the most frightening spectacles a family ever faces. Even once at peace with that decision, the nagging fear that a loved one may not receive adequate care, or may be abused or neglected in a nursing home, continues to haunt the minds of families. The continuation of OBRA '87 nursing home regulations is a major victory for today's two million nursing home residents, and tomorrow's growing elderly and disabled population.

This week I chaired a hearing of the Senate Special Committee on Aging hearing to examine the need for strong Federal quality of care standards in nursing homes. The testimony from family members, advocates, witnesses and residents convinced me more than ever that the Federal Government must continue to play a central role in monitoring and enforcing nursing home standards. Witnesses shared with me heart-wrenching stories of how their family members were overmedicated, placed in physical restraints, and left to sit in their own waste while in nursing homes. I was also handed a picture by a daughter of a nursing home patient that showed a bloody, oozing bed sore that I will not soon forget.

The basis for this Federal nursing home standards law is simple, strong, and clear: that residents in nursing homes which receive Federal Medicare or Medicaid dollars should be treated with care and dignity. The law provides a framework through which facilities can help each resident reach his or her highest potential physical, mental, and general well-being. It also provides critical oversight and enforcement of nursing home standards. Following years of evidence that the states simply did not make enforcement of nursing home standards a high priority.

While the Finance Committee bill required that States include certain quality of care provisions in their Medigrant State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated that the bill lacked adequate Federal oversight and enforcement of nursing home standards.

Over the past few days I have worked with the Republican leadership and many of my colleagues on both sides of the aisle to ensure that this bill keeps intact the standards, enforcement and Federal oversight now contained in current law. No family member should have to lie awake at night worrying if their loved-ones are being abused or neglected in a nursing home. This bill ensures that nursing home residents and families peace of mind that their rights are protected and that the Federal Government will be ensuring States continue to enforce quality standards for nursing home care.

The bill provides for States to receive waivers from the Federal nursing home reform law only in tightly crafted circumstances. Specifically, States may apply for a waiver of standards only if its standards are equal to or more stringent than the Federal requirements. The amendment clearly indicates that such waivers are allowed unless the Secretary approves the waiver, and only if each standard is equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waives or limits the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA 87.

Mr. President, while I believe that the package including home care steps toward reforming Medicare and Medicaid, there are some elements of the proposals that I do not support.

During the course of the debate on the bill, I have supported amendments that were aimed at striking a more appropriate balance between Federal responsibility and State flexibility, and ensuring protections for our most vulnerable populations. This effort is far from complete and I will continue to work toward achieving the goals of deficit reduction and Medicare and Medicaid reform.

Mr. President, let me address the issue raised by my colleague from Arkansas, since he and I have worked for many years in dealing with the nursing home reform. It was called OBRA 87, but it is basically the nursing home reform that we worked 15 to 17 years to develop. We held a hearing this week in the Banking Committee in which we, once again, reaffirmed the need and saw the need to maintain strong Federal standards over nursing homes in our country—not only standards, but enforcement, oversight and enforcement procedures.

This is not, as some might think, a last-minute attempt to weaken and dilute what was done this morning. I should tell my colleagues that I have been working for the past 3 or 4 days with the majority leader and his staff, anticipating that we would have a debate understanding the House of Representatives wants no standards imposed. They want to turn it over to the States entirely.

In anticipating that, I went to the majority leader saying, this is important to me, it is important to us, it is important to the country. We need to develop these standards and do it in a way that we can have broad bipartisan support. So that has been something we have worked on for the past 3 days. In fact, we worked until last night mid-night trying to work out the language.

So I just want to assure my colleagues on the other side, this is not something that has been concocted in
the dark of the night in order to weaken what was done this morning. I supported strongly what was done this morning.

A particular measure reaffirms the need to have OBRA 87 standards. We want the nursing home reform standards we passed in 1987. We finally started to get the civil monetary penalties imposed as of July of this year. We finally have some teeth to establish standards. I do not want to see those thrown overboard.

I said to my colleagues on this side of the aisle that we need these standards. I said to my colleagues from Arkansas that agree that we have had these complaints. No law is perfect. We have tried to modify laws over the years to make sure that, if we overreach, if something is too burdensome, too costly, or duplicative, we make changes. So we made some minor changes which I think are positive as far as I am concerned.

The apprehension I had is in the point raised by my friend from Arkansas: that is, "If States show that they have standards equal to or greater than..." I saw that as a red flag and said, wait a minute. I do not want to create, in what much of an exemption I am not sure where the enforcement is going to lie.

I worked very late last night with my staff and with the majority staff to make sure that any State—and I do not know of any State that has the same or better ones than the Federal ones. But assuming States come forward, as they have not in the past, and raise their standards to those at the Federal level, I believe that if they can satisfy the Federal Government cannot fine any nursing home in that particular State, the Federal Government cannot penalize, cannot say you cannot take in any more Medicaid patients. Only the State has the enforcement authority over nursing facilities. I think my colleague from Arkansas that, as I indicated before, the first major change we made in this bill was to delete the parole of the waiver granted under subparagraph (A); and any other authority available to the Secretary to enforce the requirements of section 1919 as so in effect.

What we have done in this section is to say that just because you get a waiver, you are not free from the enforcement provisions here. The Federal Government retains the authority to go in and impose those penalties. Were that not in there, I would not be supporting this.

Let me say one other thing to my colleagues. As I indicated before, the House bill, which I opposed, left out, if they have been granted a waiver, you are not free from the enforcement provisions here. We passed the measure we supported this morning by, I think, three votes. It is my belief—and I support what we did this morning, and I reaffirm that action—that we are going to be in a much stronger position with a majority endorsing what we are doing here and going to the confeerees and saying we want this provision, and it will remain in the bill, and we will have it when it goes to the President.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. Mr. EXON. I yield 1 minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the manager. Mr. President, on page 38 in section (C)—let me say to my good colleague and friend from Maine that, according to this section and the sections preceding it, if a State has opted out, if they have been granted a waiver for an indeterminate amount of time—and it could be 30 days or 30 years: who knows?—but if that State is under a waiver of the requirement, the Federal Government cannot fine any nursing home in that particular State. The Federal Government cannot penalize, cannot say you cannot take in any more Medicaid patients. Only the State has this jurisdiction.

I am trying to impress upon my friend that, he not knowingly, not willingly, is helping to weaken drastically the nursing home standards that have worked so well since 1987.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. Mr. President, I yield 1 minute to the Senator from Minnesota.
are going to allocate over $710 billion of your American taxpayers' money over the next 7 years and the standards by which those allocation decisions would be made.

There is no rationale to the allocation formula which is in this bill. I have been asking for better than 36 hours to get the legislative language. Finally, at 6:25 p.m., we got the first version of the legislation but not the last version. The last version came at 9:45.

Let me direct your attention. If you have the 6:25 version, to page 36. I ask someone on the Republican side to explain the theory and philosophy behind this allocation.

On page 36, line 11. it says, "Additional Amounts Described. The additional amounts described in this paragraph are as follows;" these are additional amounts that go to States just because they are the States.

Arizona gets $63 million; Florida gets $250 million; thank you: Georgia gets $34 million; Illinois gets $376.5 million; South Carolina, $181 million: the State of Washington, $250 million.

That was the list as of 6:25. But by 9:45, Vermont has come on for $50 million.

Friends, we have talked a lot about balanced budget, about fiscal prudence and responsible use of taxpayers' money. That is how your money is best spent.

Let me tell you another little fact in terms of the rationale of distribution. Of the States which have two Democratic Senators, the difference between what those States would have received out of a pool of dollars that was $10 billion less—$10 billion less—total money to be distributed. Those States which have two Democratic Senators lost $3.605 billion. Of the States that have two Republican Senators they gained $3.605 billion. Of the States which have two Democratic Senators lost $10 billion less—$10 billion less—total money to be distributed. Those States which have two Republican Senators they gained $11.22 billion.

That is the rationale way in which we are distributing $770 billion of the taxpayers' money.

Now we come to the States that got those absurd allocations? We did it largely because, unlike the Finance Committee which very thoughtfully made the decision to restrict the amount of money that a State could continue to take into its base for allocation, those funds which were derived from what is called disproportionate share, disproportionate share.

What is disproportionate share? It was the amount of money that was distributed to States over the periods of the 1970's and 1980's theoretically to make up for the hospitals that had a high incidence of poor and underserved population. That is an increasing element of the Medicare program. In fact, in 1990, disproportionate share was only $1 billion: by 1992, it had gone to $17.4 billion.

Why had we seen this enormous increase? We had seen the enormous increase according to a GAO report. General Accounting Office report. dated April of this year, because there were States which were scheming this money. The swapping and redirecting of revenues among providers, the State and the Federal Government resulted in increasing incremental increases of funds for providers, and in some cases additional revenue for State treasuries.

So States were manipulating this disproportionate share to their benefit. Under the original Finance Committee, we would have retained and limited the benefit that could have been gained by that previous predatory action. We have now taken all of the constraints off. We have now said the State can go back to 1994 and count every dollar that they had gotten under that disproportionate share.

Let me tell you something, Mr. President. that may be surprising. The GAO did come out with a report on three States. I will be blunt and say who they were: Michigan, Tennessee and Texas. Michigan, Tennessee, and Texas.

Of all of the new money that came into this plan in the last 24 hours, the $10 billion, how much do you think Michigan, Texas and Tennessee got? Mr. President. $6.5 billion. They got almost 2 out of every 3 new dollars that went to those States which have been identified as the principal perverters of the system.

What kind of policy is that? We are going to reward and benefit those States which benefit the most from the Federal taxpayers? What kind of a plan is this? I would be very interested to get a response from our Republican colleagues on that issue.

Friends, the fact that we are about to rape the elderly nursing home, the fact we are raping the Federal Treasury and rewarding inappropriate, I say criminal past behavior is not the end of it.

Where are we getting the $10 billion from? We are getting the $10 billion by raiding Social Security.

The last position of this legislation states that we are going to fund this $10 billion, where it will come from, is because we are going to say that we will break our previous practice of using the Congressional Budget Office as the means of calculating what our deficit position is, and we will for this year take the lower cost-of-living number, which has just recently been reported. leave everything else in our revenue estimates the same, but plug in that new number, which is a 2.6 cost-of-living factor rather than 3.1.

Now, we are not going to do this as it relates to revenue. You know there are some rich people that benefit by this because their taxes are indexed. They get held down by virtue of a higher cost of living. We are only going to use this against the old folks—primarily Social Security and other Federal programs. —who are going to have their money used as the basis of funding this raid in order to benefit a handful of politically powerful—and I would say probably politically greedy—States in order to pass this atrocious proposition.

What has the Congressional Budget Office had to say about this particular raid on the Federal Treasury? The Congressional Budget Office has stated—this is Paul Van de Water, who is the Assistant Director for Budget of the Congressional Budget Office. He states that the Congressional Budget Office and the Office of Management and Budget "do not score savings for legislating a COLA that would happen anyway under current law. This rule was applied to veterans compensation in the last 24 hours.

In other words, we are changing our previous Congressional Budget Office policy.

But, friends, it gets worse. Mr. Van de Water goes on to say that:

At the request of the Budget Committees, the CBO has from time to time updated the baseline to reflect recent economic and technical developments. In such circumstances, however, we insist on incorporating all relevant new information, not just selected items, such as COLAs. In this instance . . .

Friends, listen to this sentence: we were to integrate all of the information in our August baseline, plus the actual 1996 COLA, our estimate of the 2002 deficit . . . would be higher.

It would be higher, not lower.

So we are using a fraudulent method in order to calculate what is presented to be savings in order to fund this atrocious raid on the public Treasury when the Congressional Budget Office has stated that they were asked the right question they would not only not have scored this as creating any additional money, but they would have said that we would have a greater deficit than we started with.

So, friends, that is what we are about with this amendment in the Finance Committee that we have waited 36 hours to get. If you want to know why this stealth bomber was out there all those hours when we kept asking. Can we see what is in this proposal, can we see the legislative language, can we see the State-by-State numbers—we could not get an official stamp. So it is too complicated. It is being worked. The technicians are pouring over it.

I am certain the technicians came up with a formula that gave $11 billion of additional funds to States that just happened to be represented by Republicans and cut the funds from the States that happened to be represented by Democrats. That was just a technical oversight.

And then to have the gall to raid our Social Security fund as a means of financing this, is there no limit to what we ask our older people to do? We are raiding their Medicare, we are raiding other important programs for the elderly. And now we are using their Social Security in this back-door means as the basis to fund an additional $10 billion which does not exist, which would go toward a deficit, to give money to a few favorite States so that they can corral the votes to pass this steamy mess.

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My friends, I wish this thing would stay the stealth bomber. It is better if we did not see it than if it finally appeared on the radar scope and we are able to look at it. Mr. President, fellow colleagues, the answer tonight is a simple answer: that is, to defeat this amendment. As bad as the proposal passed by the Finance Committee was, it looked so much better than what we are about to vote upon. We have converted a frog into a beauty with this amendment.

So I urge my colleagues to vote this amendment down, and let us at least consider the correct thing that we in the Senate can have some degree of satisfaction as it is taken up in conference.

The PRESIDING OFFICER. The Senate's time has expired. Who yields time?

The Senator from New Mexico has 12 minutes and 32 seconds, and the Senator from Nebraska has 4 minutes, 24 seconds.

Mr. DOMENICI. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, with reference to the formula, let me just state for the record that 46 States are better off under this formula than the House formula. Many of those have Democratic Governors and many of those have Democratic Senators. Many of those have Republican Governors and Republican Senators. Let me repeat. Under this formula, 46 States are better off than in the House formula.

Mr. President, Senator COHEN has adequately answered the remarks with reference to nursing homes. I do not know how anybody could stand on the floor of the U.S. Senate and say that we are raping the nursing homes. I have just heard Senator COHEN, one of the strongest and best advocates, say that has been fixed in this bill. He just said it. He repeated it. He read the language. And so we hear it from that side of the floor.

Let me tell you with reference to the money in this budget that is used for some of the reallocation, that there is nothing wrong with it. It is not phony. It is plain and simple, the fact: We already established in the United States of America that the Consumer Price Index is not 3.1 percent, but rather, 2.6 percent. We are not talking about 3 years from now. We are talking about right now. It is not 3.1, as estimated in this budget. It is 2.6. The reality is that is not going to change. It is 2.6 for the rest of the year. It just has not changed. So if you do the numbers, that saves $13.1 billion. The meaningful $13.1 billion less is being spent because of the real Consumer Price Index—not speculation and not changing anything. That is where you get $13.1 billion. This is because we do not use the tax revenues and spend them. We left them there. So we only used the revenues that I have just described. It does not mean we changed anything on the Tax Code. The taxes are going to come out at the 2.6 level in terms of the bracket creep that will be adjusted. So the argument just misunderstands what we have done and what the reality is.

Having said that, Mr. President, I am led to believe that, in spite of this interoffice memorandum, there is nothing from the Director of the Congressional Budget Office. This is somebody that works there named Paul Van de Water, writing to somebody named Sue Nelson, who is on the staff of the Budget Committee, and gives a little history of what has and has not been done.

The truth of the matter is that Chairman Sasser last year came to the floor—in 1993. excuse me—and he said, "I want to adjust the numbers for reality, for the real thing." And, in fact, he adjusted two items in the budget for what he perceived to be the real numbers. In doing that, revenues and monies were found to make their budget come out as planned.

Frankly, ours is absolutely real because the Consumer Price Index is not 3.1 percent. The checks are going out at 2.6. We are not taking money away from anyone.

I am led to believe this is not subject to a point of order, and we decided that we were going to reallocate some money because a number of States felt that they had not been treated fairly here. Some said they had been treated fairly in the House. Others said they had not, and we still have to go to conference in order to come out with the final formula and final distribution.

So as far as that part is concerned, how the allocations came about, I was not part of that committee. I trust them. I think they did a good job. And the chairman is here. They all worked together. There may be thoughts I need to explain in more detail.

But let me suggest that we in no way—in no way—are attempting to defraud anyone. As a matter of fact, this budget will be balanced in the year 2002, and if you need a letter on that from June O'Neill, we will get it for you.

This does not unbalance the budget, because we have a $13 billion surplus in 2002, and if you do not even come close to using it, so we will still be in balance.

If I have not used my time, I wish to yield it back. And I want to ask Senator Roth if he wants to talk for a couple minutes, or Senator Dole.

The PRESIDING OFFICER. The Senator has 7 minutes 35 seconds.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Seven minutes 35 seconds.

Mr. DOMENICI. We will reserve our time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 24 seconds and previously yielded time. I believe 2 minutes.

Who wishes to yield 2 minutes to the Senator from Arkansas?

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. PRYOR. Mr. President, I will not use all my 2 minutes. Mr. President, I rise to ask a parliamentary inquiry.

Mr. President, this morning by a vote of 51 to 48, the Senate voted for an amendment offered by myself and Senator COHEN of Maine. The amendment was adopted and agreed to. Presently pending is another amendment with different language proposed by the distinguished Chairman of the Finance Committee, Senator ROTH, in the manager's amendment. Should the manager's amendment pass, does the manager's amendment encompass or include the nursing home provisions of Senator ROTH? Does it prevail over the amendment passed this morning by a vote of the Senate?

The PRESIDING OFFICER. The Chair is informed that by virtue of the fact that this amendment covers a broader spectrum of the bill, if the Senate adopts this amendment, it would prevail over the previous text that was included in the smaller reaching amendment that was voted upon this morning.

Mr. PRYOR. Mr. President, then if I have any time remaining, I would simply ask my colleagues on the other side of the aisle, what do they see as operating these nursing home standards that have worked so well for these years, that my colleague from Maine was saying just now are having their bite? Why are we taking that bite out? Why is the amendment excluding that? Mr. President, we are going to be committing a terrible mistake if we do. I hope we will not adopt the chairman's amendment.

Mr. EXON. How much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds.

Mr. EXON. I yield 2 minutes 50 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes 50 seconds.

Mr. GRAHAM. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. GRAHAM. Are outlay reductions to the Social Security used to offset the spending of this amendment?

The PRESIDING OFFICER. The Chair is not in a position to answer that question.

Mr. ROTH. Mr. President, would the Chair like to be informed on that matter so that he might be in a position to answer that question?
The PRESIDING OFFICER. The Senator from Florida from
The Senator has 2 minutes 30 seconds.
Mr. GRAHAM. Mr. President, I will
Mr. GRAHAM. Mr. President, I will
Mr. GRAHAM. Mr. President, just to
Mr. GRAHAM. Mr. President, just to
Mr. GRAHAM. Mr. President, just to
Mr. GRAHAM. Mr. President, I send
to the desk for the review of the Chair
as well as for inclusion in the RECORD
purposes of supporting the funding con-
There being no objection, the mate-
All Cash Benefit Programs Indexed to the
The PRESIDING OFFICER. The Sen-
Mr. DOMENICI. How much time is
The PRESIDING OFFICER. Five
Mr. DOMENICI. The other side has
Mr. DOMENICI. I yield 3 minutes to
Mr. DOMENICI. I thank the Senator for
If I could point out what is also in
Mr. ROTH. First of all, Mr. Presi-
The PRESIDING OFFICER. Two
Mr. ROTH. Just let me point out that in
Mr. ROTH. That was not based on partisanship. It
Mr. ROTH. And I just want to point out that
Mr. ROTH. As a matter of fact, the President's
Mr. ROTH. As a matter of fact, the President's
Mr. ROTH. You are comparing the
Mr. ROTH. That is pure demagoguery. There
Mr. ROTH. There is a waiver provision contained
Mr. ROTH. What was not talked about in
No. 2, not only do we have the same
There is a waiver provision contained

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<td>2005</td>
<td>3.2</td>
<td>3.2</td>
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</table>
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may qualify or try to apply for a waiver. They can do that. If they have penalties that are equal to or greater than what is in the Federal law, they can apply for the waiver.

The Secretary of HHS has 120 days, in which time he either grants it or denies it. And assuming he or she grants it, he or she still retains the authority to go in there and impose penalties upon the State if there is any deviation from the standards. They can suspend and terminate the institution. They can terminate the waiver.

At the bottom of the page, please look at it. "Any other authority available to the Secretary to enforce requirements of section 1919." That is OBRA. That says the Secretary of HHS still has all of the authority to enforce every single provision in OBRA '87, all the way up to the change we made as of this date.

So, I want to assure my colleagues I would not be supporting this if I did not believe that for the first time we have the majority saying we want to maintain OBRA '87. We want the same standards. We want the same enforcement levels. We will provide some opposition to any of the waiver, but only if they measure up to what we expect, and then the Secretary retains the authority to impose every single penalty.

So in many ways we give more authority to the Secretary under these circumstances.

So, please, I hope everyone will not mischaracterize what is being done here.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico has 2 minutes 13 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator DOLE.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I just want to say, I think we have a fair discussion of this amendment, and we indicated to the Senator from Florida this morning we would have that discussion. He did have access, as he indicated, to the information at about 8:27. So, I believe we had adequate time to take a look at it.

We made a lot of changes. Changes are always made in a big, big package like this by either party, both parties, whatever. I believe the Senator from Maine and the Senator from Delaware, and others pointed out these have been very constructive changes.

We always have these formula fights, and there is always someone running around with a sheet of paper saying how much one State got over the other State. I can name a State with two Republican Senators where they are getting $500 million less than they had in the committee.

Mr. HARKIN. I raise a point of order under section 310(g) of the Budget Act because the pending amendment achieves its savings by changing the cost-of-living provision of section 215 of the Social Security Act, and changing title II of that act violates section 310(g) of the Congressional Budget Act.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. CPI was not changed as referred in that act.

The PRESIDING OFFICER. The Chair is informed that the provisions in the act cited are not applicable to this instance and that the point of order is not well taken.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HARKIN. Section 7482 on page 45 of the pending amendment, line 22, states: "Notwithstanding any other provision of law," that is not referencing title II of Social Security?

The PRESIDING OFFICER. The Chair is informed that that would not be interpreted as referencing anything. That is to indicate that without regard to any other provision of law, this provision of this bill would become law.

Mr. HARKIN. Further parliamentary inquiry.

Is the Chair then ruling that by that very sentence, "Notwithstanding any other provision of law," that that would, in fact, cover title II of Social Security since it is law? And that, "Notwithstanding any other provision of law," therefore, that overrides title II of Social Security?

The PRESIDING OFFICER. The Chair would state that that interpretation must yield to a clear provision of law. The Senator is asking this Chair to act as a court and make a determination of law and the conflicts of law, and that is not within the proper purview of this Chair.

Mr. HARKIN. Further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Is the Chair ruling, as pertains to the rule on Senator GRA-}

The Chair is not ruling—the Chair is not ruling—as the Senator indicated, that the point of order is not debatable. I note the Senator from New Mexico wishes not to make a statement.

The scoring of this bill under the Budget Act is under the control of the chairman of the Budget Committee, and the precedents of the Senate do not go beyond that. The point of order is not well taken.

Mr. HARKIN addressed the Chair.

Mr. DOMENICI. I ask for the yeas and nays.

Mr. HARKIN. I raise a point of order under section 310(g) of the Budget Act because the pending amendment achieves its savings by changing the cost-of-living provision of section 215 of the Social Security Act, and changing title II of that act violates section 310(g) of the Congressional Budget Act.

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Mr. HARKIN. Further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Is the Chair ruling, as pertains to the rule on Senator GRA-
Mr. HARKIN. One last parliamentary inquiry.

The PRESIDING OFFICER. The regular order is for the Chair to determine if there is a bona fide parliamentary inquiry being presented to the Chair. One further inquiry.

Mr. HARKIN. If that is the ruling of the Chair, the Social Security law must be sealed to attack under reconciliation. How would not section 310(g) of the Budget Act be no hearing meaningless by the precedent the Chair is now setting? The PRESIDING OFFICER. The Chair has no intention of rendering meaningless any provision of the Budget Act. The Chair is in order to comply with the Budget Act. We are attempting to comply with the Budget Act. The Chair is in order. The Senate is in order. The Chair is in order. The point of order has been confirmed that each and every provision of the Budget Act. The Chair is informed the motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate. The Chair is informed the motion to waive is not debatable. It is subject to a vote by the Senate. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate.

Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed the PRESIDING OFFICER. If the Senator will withhold. The Senate is in order. Mr. EXON. Mr. President, our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed the motion to lay on the table. The motion to lay on the table was agreed to. The PRESIDING OFFICER. Are there any other amendments to this bill? Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed the motion to lay on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If the motion to waive is in order a violation of the Byrd rule. So I renew my point of order under the Byrd rule. The motion is in order. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate. The Chair interpreter the leader to mean on the motion to waive the point of order? Is there objection?

Five minutes on a side, then, on this issue.

Mr. DOMENICI. Mr. President, I move to waive the Budget Act for the consideration of the following provisions and for the language of the provisions if included in the conference report:

TITLE VII—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995

<table>
<thead>
<tr>
<th>Subject and Sections</th>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
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<tr>
<td>2174</td>
<td>Subtitle C—Welfare:</td>
<td>Individual Entitlement</td>
<td>310(b)(1)(A)</td>
<td>Excessive: no budgetary impact. This title shall not be construed as providing for an entitlement.</td>
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<td>4030E(C)</td>
<td>Subtitle C—Welfare:</td>
<td>Supplemental Grant for Population Increases in Certain States</td>
<td>310(b)(1)(A)</td>
<td>Excessive costs. Provides additional grants to states with higher population growth and average spending less than the national average.</td>
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<td>4030E(C)</td>
<td>Subtitle C—Welfare:</td>
<td>Treatment of Inmates Under Rules of Former States</td>
<td>310(b)(1)(A)</td>
<td>Excessive costs. Provides additional grants to states that have a history of treating their inmates without regard to federal rules.</td>
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<td>4055F(3)</td>
<td>Subtitle C—Welfare:</td>
<td>No Assistance for More Than Five Years</td>
<td>310(b)(1)(A)</td>
<td>Excessive costs. Provides additional grants to states that have a history of providing assistance for more than five years to individuals who are not eligible for assistance.</td>
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<td>Subtitle C—Welfare:</td>
<td>State Option to Deny Assistance for Out-of-Wedlock Births</td>
<td>310(b)(1)(A)</td>
<td>Excessive costs. Provides additional grants to states that have a history of denying assistance for out-of-wedlock births.</td>
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<td>4055F(1)</td>
<td>Subtitle C—Welfare:</td>
<td>State Option to Deny Assistance for Children Born to Females Receiving Assistance</td>
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<td>Excessive costs. Provides additional grants to states that have a history of denying assistance for children born to females receiving assistance.</td>
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<td>4055F(7)</td>
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<td>Grant Increase to Reward States That Reduce Out-of-Wedlock Births</td>
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<td>Excessive costs. Provides additional grants to states that have a history of reducing out-of-wedlock births by at least 2 percent below 1995 levels.</td>
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<td>418</td>
<td>Subtitle C—Welfare:</td>
<td>Performance Bonus</td>
<td>310(b)(1)(A)</td>
<td>Excessive: no budgetary impact. The title shall not be construed as providing for an entitlement.</td>
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<td>7021</td>
<td>Subtitle D—State:</td>
<td>Services Provided by Charitable, Religious, or Private Organizations</td>
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<td>Excessive costs. Provides additional grants to states that have a history of providing services through contracts with charitable, religious, or private organizations.</td>
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<td>Subtitle D—State:</td>
<td>Scholarship of Rights of Fed Funds</td>
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<td>Subtitle D—State:</td>
<td>Repeat of Maintenance of Effort Requirement Applicable to Optional State Programs for Supplementation of SSI</td>
<td>310(b)(1)(A)</td>
<td>Excessive: no budgetary impact. The title shall not be construed as providing for an entitlement.</td>
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<td>7293</td>
<td>Subtitle D—State:</td>
<td>Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age</td>
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<td>Excessive costs. Provides additional grants to states that have a history of providing benefits based on Social Security Retirement Age.</td>
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<td>7294</td>
<td>Subtitle D—State:</td>
<td>Excessive costs. Provides additional grants to states that have a history of providing benefits based on Social Security Retirement Age.</td>
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<td>7295</td>
<td>Subtitle D—State:</td>
<td>Excessive cost impact within the 7-year budget window.</td>
<td>310(b)(1)(A)</td>
<td>Excessive costs. Provides additional grants to states that have a history of providing benefits based on Social Security Retirement Age.</td>
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Mr. DOMENICI. Let me explain what is in it: only provisions included in the welfare bill.

The reason I did that is because the Senate approved the welfare bill—87 votes on the welfare side. Mr. PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. I send it to the desk. The PRESIDING OFFICER. The Chair will have to look and see whether there are any of these provisions not covered by the ruling that the Chair was prepared to make. Mr. KERRY. Mr. President, parliamentary inquiry. The PRESIDING OFFICER. Hold up for a minute, please.

What is the parliamentary inquiry? Mr. KERRY. The parliamentary inquiry was whether or not the Chair was in the process of giving a ruling which would assist us to know what the relevancy of the waiver is. The Senator would certainly appreciate hearing the ruling.

The PRESIDING OFFICER. The Chair will inform the Senate that the Parliamentarian has indicated should be dropped from the statement of extraneous provisions provided by the Senate from Nebraska.

There is now 10 minutes equally divided, 5 minutes on a side. Mrs. BOXER. Parliamentary inquiry. Mr. President, the PRESIDING OFFICER. Who yields time?

We have a time agreement now. There can be no further parliamentary inquiry without using the time. Mr. EXON. I yield 1 minute. Mrs. BOXER. I want to know which three the Chair has ruled on.

The PRESIDING OFFICER. The Chair has not ruled and will not rule under the Parliamentarian’s advice until the Chair acts on the motion to waive the point of order on a series of these items. Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania. Mrs. BOXER. Parliamentary inquiry. The PRESIDING OFFICER. There is no time until we use this 10 minutes, except for that purpose. Mr. KERRY. Parliamentary inquiry takes precedence over request for time. The PRESIDING OFFICER. Not unless—

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania. Mr. SANTORUM. I want to tell people who know what is in this motion. What this motion would do, what the motion of the Senator from Nebraska would do is strike the 5-year limit. There will no longer be a time limit on welfare.

Some people would like that, but we voted 87 to 12. You want to end welfare as we know it, in what the President said he campaigned on, put a time limit on welfare. If this motion is not waived, we will not have a time limit on welfare.

The growth formula—we worked very long and hard on trying to find money to be able to give to the States as they grow under the welfare system. All the growth formulas are struck—no more money. Whatever you get in the original formula, you do not get any additional money. We do not take into account any growth in welfare population. They strike it all.

Want to provide for assisted suicide payments? You can do that. Under the original bill, you cannot actually reimburse people who actually tried to go out and help people kill somebody else. Now you can. You can do it because we will strike it under this provision.

There is a laundry list of things here that are just punitive. We had a vote. Mr. MOYNIHAN. Mr. President, about 2 weeks ago we made a profound mistake in voting the welfare measure we did. A report now surfaces from the White House that says it will instantly plunge 1.1 million children into poverty. If that is the desire of this body, voice not to waive. You have a chance of redemption.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining. Mr. EXON. I yield 2 minutes to the Senator from South Dakota. Mr. DASCHLE. Mr. President, I voted for the welfare bill, as well.

Let me say I do not hold the same view as the distinguished Senator from New York about the consequences of the bill that we passed here in the Senate. Obviously, I would like to see a lot more done in welfare reform, and ultimately I think we will do a lot more. If we feel strongly about welfare, it is important enough to separate out from reconciliation. It ought to stand on its own. It ought to be considered policy for policy sake, not a source of revenue, referred out of current welfare programs into other things. That is what we are doing in the reconciliation package. That is why I support the point of order raised by the ranking member, the Senator from Nebraska.

Mr. DOMENICI. I yield back the balance of our time. I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from West Virginia. Mr. BYRD. Mr. President, I voted for the welfare bill, but I did not vote on each of the items, which may be in violation of the Byrd rule on this bill. That is what we are narrowing it down...
to at this point. Is it extraneous to the reconciliation bill?

A point of order has been made against provisions, as being in violation of the Byrd rule. That is the question to be decided.

The Senator from New Mexico, the distinguished manager, has moved to waive this Byrd rule point of order.

The Senate will vote one way or the other. If the Senate votes to waive the point of order, then there is no point of order. It falls. But if the Senate votes not to waive the point of order, then the Chair will rule on each of the amendments. either en bloc, or if there are one or two that the Chair disagrees with, he can so state, as he sees it.

I hope the Senate will uphold the Byrd rule, the intention of which was to rule out extraneous matter in reconciliation bills. No matter what your thinking is on the welfare bill—and the point of order has now been made—is that this is an important in the context of the interpretations that have been made, the precedents, the definitions, and the rule itself?

I hope the Senate will vote against the motion to waive so that the Chair may rule on the point of order.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. The request.

Mr. DOMENICI. Mr. President. I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. The request.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

Mr. CONRAD. Thirty seconds.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Recall Vote No. 555 Leg.]

<table>
<thead>
<tr>
<th>Yeas:</th>
<th>53</th>
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<tbody>
<tr>
<td>Nays:</td>
<td>46</td>
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</table>

Abraham       McCain       Feigen      Warner
Ashcroft      Corner       Frist       Welch
Bennett       Gramm       Gordon       Wilson
Brown         Gramm       Grassley     Wirth
Burns         Gregg       Hatch       Wyden
Campbell      Hatch       Kobalis      Wyden
Chafee        Hatfield     Koch       Wyden
Coats         Hawkins     Kozlovsky     Wirth
Cochran       Hutchinson    Kraft       Wirth
Cohen         Inhofe       Kuchel     Wyden
Cordy         Inhofe       Kuenzle     Wyden
Craig         Kassebaum    Lamborn     Wyden
D'Amato       Kean        Lautenberg     Wyden
DeWine        Kean        Lott        Wyden
Domenici      Lugar       Long           Wyden
Faircloth     Mack        Lowenstein    Wyden

The PRESIDING OFFICER. Will the Senator withhold the Chair to state one question?

Mr. DOLE. The Chair is not going to rule.

The PRESIDING OFFICER. No, but I wish to state that the Chair has been informed that each of these extraneous provisions is subject to a motion to waive. It would be incumbent on the Chair somehow to get an agreement with the Senate how to handle this. We have never handled such a massive list of extraneous provisions before.

The majority leader has suggested a quorum. The clerk will call the roll. There is this problem.

The legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think rather than take further time of the Senate tonight, we can knock all the other provisions out in conference with the Byrd rule, the very selective list sent up by the Democrats. We can take care of the other provisions in a conference. They are also subject to the Byrd rule. So, I think rather than do that here this evening, we will take care of those in conference.

Let the Chair rule, en bloc.

The PRESIDING OFFICER. The Chair is prepared to rule pursuant to the general order provisions that were added to the Byrd rule in 1990. And the Chair, on the advice of the Parliamentarian, does rule that of the 49 items listed on extraneous provisions, 46 are well taken. 3 are not.

Of the provisions regarding exemption of agriculture and horticultural organizations from unrelated business income tax on associate dues.

The second is the tree assistance program under the Committee on Agriculture.

And the third is the provision of the Commerce Committee dealing with the Spectrum language on page 207.

These are the three items.

The Chair must advise that after such a ruling any Senator may appeal the ruling of the Chair.

Mr. DASCHLE. Mr. President, just a point of inquiry.

If this material would be incorporated in the conference report, when it comes back would it be subject to the point of order?

The PRESIDING OFFICER. The Chair is advised it would be.

Mr. DASCHLE. I thank the Chair.

Mr. DOMENICI. Did you rule?

The PRESIDING OFFICER. The Chair ruled that 46 items listed on the extraneous provisions are subject to the Byrd rule. Those items are individually appealable.
The clerk will enter in the RECORD those items presented to the Chair and those that were ruled upon pursuant to the advice of the Parliamentarian.

**EXTRANEOUS PROVISIONS, RECONCILIATION, 1995**

<table>
<thead>
<tr>
<th>Subject and Section</th>
<th>Subject</th>
<th>Budget Act Revision</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1113(b)(2)</td>
<td>Nitrate eliminate additional peanuts if market price exceeds 100% than rate.</td>
<td>313B(n)(V)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>1115</td>
<td>Savings adjustments to prerepayments to farmers if deficit amount aren't met.</td>
<td>313B(n)(V)</td>
<td>No budgetary impact.</td>
</tr>
</tbody>
</table>

**TITLE I—AGRICULTURE**

**Sec. 2001**

The sale of Naval Petroleum Reserves

313B(n)(V) | No budgetary impact. |

**Sec. 3002**

Depends Insurance Study. Requires Secretary of the Treasury to conduct a study on converting the FICA into a self-funded deposit insurance system.

313B(n)(V) | No budgetary impact. |

**TITLE IV—COMMERCE, SCIENCE, AND TRANSPORTATION**

**Subtitle B. Oil and Gas:**

5901 | California Land Directed Sale | Byrd 313B(n)(V) | Savings are mainly incidental to the transfer of Federal land (Novel Valley) to the state of California for the purpose of creating a low-level radioactive waste site. |

5950 | Radio and TV Site Communication Fees | Byrd 313B(n)(V) | Excessive, no budgetary impact. Establishment of this section would have no impact on revenues because the long-distance telephone already assumes that the BLM and the Forest Service would raise fees by the level beginning in 1996. |

**Subtitle C. Welfare**

5505 | Repay in Kind | Byrd 313B(n)(V) | Non-budgetary. Clarifies the Secretary's option to take repay in kind in land and gas. |

5510 | Repay Simplification | Byrd 313B(n)(V) | No budgetary. Requires the Secretary to streamline royalty management requirements, and submit a report to Congress. |

5512 | Delegation to States | Byrd 313B(n)(V) | Delegates various auditing responsibilities to the States. |

**Section 505(c)**

Resale of highway demonstration projects: | 313B(n)(V) | This section is not within EPA's jurisdiction. |

**Subtitle D. Medicaid**

2106 | Medicaid Task Force | 313B(n)(V) | Excessive, no budgetary impact. The Secretary is not to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified. |

2123(g) | Authority to Use Portion of Payment for Other Purposes | 313B(n)(V) | Non-budgetary. Requires the Secretary to streamline royalty management requirements, and submit a report to Congress. |

2123(h) | Treatment of Assisted Suicide | 313B(n)(V) | Excessive, no budgetary impact. This title shall not be construed as providing for an entitlement. |

2174 | Individual Enrollment | 313B(n)(V) | Excessive, no budgetary impact. |

**Subtitle C. Welfare**

401(b)(3) | Supplemental Grant for Population Increases in Certain States. | 313B(n)(V) | Excessive, covers. Provides additional grants to States with higher population growth and average spending less than the national average. |

401(b)(4) | Trust Immigrants Under Rules of Former State | 313B(n)(V) | Excessive, no budgetary impact. A State may apply to a family same or all of the rules, including benefit amounts, or the program operated by the former state if the family has resided in the current State for at least 12 months. |

401(b)(5) | No assistance for More Than Five Years | 313B(n)(V) | Excessive, does not count. States may not provide assistance for more than 5 years on a cumulative basis. |

401(b)(6) | State option to Deny Assistance For Out of Medical Births in States. | 313B(n)(V) | Excessive, does not count. States may deny assistance for a child born out of wedlock to an individual who has not attained 18 years of age, or for the individual. |

401(b)(7) | State option to Deny Assistance For Children Born to Families Receiving Assistance. | 313B(n)(V) | Excessive, does not count. States may deny assistance for a minor child born to a recipient of assistance. |

401(b)(8) | Grant increased to Reward States that Reduce Out-Of-Wedlock Births. | 313B(n)(V) | Excessive, does not count. States may deny assistance for a minor child born to a recipient of assistance. |

410 | Performance Bonus and High Performance Bonus | 313B(n)(V) | Excessive, covers. States with higher performance improvement receive a bonus. Note: this is paid for with previous year's penalties so in most claims it is not fairly neutral. However, it is a separate fund for current section. |

7202 | Services Provided by Charitable, Religious, or Private Organizations. | 313B(n)(V) | Excessive, no cost impact. Allows States to provide services through contracts with charitable, religious, or private organizations. |

7207 | Disclosure of Receipt of Fed Funds | 313B(n)(V) | Excessive, no cost impact. |

**Subtitle D. SSI:**

Chapter 7: 7201 | Eligibility of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI. | 313B(n)(V) | Excessive, no cost impact. Savings offsets to the State. |

Chapter 8: 7205 | Eligibility for SSI Benefits Based on Sec. Sec. Relaxation Age. | 313B(n)(V) | Excessive, no cost impact within the 7-year window. |

**Subtitle G. Other welfare:**

Chapter 1: 7472 | Reductions in Federal Barriers. | 313B(n)(V) | Excessive, no direct spending impact. Reduction is on the discretionary side of the budget. |


7487 | Self-Regarding Corrections of Cost of Living Adjustments | 313B(n)(V) | Excessive, no direct spending impact. Funds that the CPI overstates the cost of living in the U.S. and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect changes in the cost of living. |

**TITLE II—LABOR AND HUMAN RESOURCES**

**Section 10003(a)(1) (“f”(3)(i))** | Participation of Institutions and Administration of Last Programs, Limitation on Certain (Administrative) Expenses. | 313B(n)(V) | Total administrative funds are fixed in 2000 at 70% of the current level, therefore the limitation on indirect expenses and the use of funds for promotion does not save. |

**Section 10003(b)** | Loan Terms & Conditions. Use of Electronic Forms | 313B(n)(V) | Excessive, no direct spending impact. Funds that the CPI overstates the cost of living in the U.S. and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect changes in the cost of living. |

**Section 10003(c)** | Clarifying use of electronic forms does not save. (Not in cost estimate.) | 313B(n)(V) | Excessive, no direct spending impact. Funds that the CPI overstates the cost of living in the U.S. and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect changes in the cost of living. |
Mrs. MURRAY. President, we have been debating this budget reconciliation for several days now, and I must say it looks no better now than it did when we were debating the budget resolution 5 months ago. In fact, the details are more troubling than I could have imagined, and, not surprisingly, the concern in my home State is much greater than I ever predicted.

What worries me most is this budget seems to have no core values or principles that mean anything to American families. Its principles seem to be program cuts for the sake of program cuts, and tax cuts for the sake of tax cuts, with little regard for the consequences. I cannot understand the philosophy that prevails here that we have to somehow scorch the Earth in order to balance the budget.

Mr. President, I too, want to balance this Nation’s budget. In fact, I am proud to say I supported the 1993 budget package. That plan has this Nation on the right track; since its passage, our annual deficits have declined in each consecutive year. Earlier in this debate, I supported a balanced budget proposal put forth by my colleague from North Dakota, Senator CONRAD. His plan would have balanced our Nation’s deficit in a fair and equitable manner. It would have maintained a commitment to education, health care and retirees. It would have brought our spending in line with our national priorities, and it would have postponed the tax breaks until we can afford them. It was a responsible and realistic alternative: most importantly, it had core values and principles that are important to every citizen in this country.

And, I too, want to reduce taxes. Believe me, I know what it takes to raise a family, balance the family books and pay taxes. I know how badly my friends and neighbors want tax relief, and I understand how difficult it can be for families to cope with their tax burdens. I also know how expensive it is for small family businesses to lose businesses to large businesses in the family, and I believe targeted estate tax relief is an example of good tax reform: as is allowing first-time homebuyers to make tax-free IRA withdrawals for the purchase of a new home.

But, there is a right way and there is a wrong way to balance the budget, and the plan before us balances our budget the wrong way. We cannot afford to balance this Nation’s budget on the backs of our children and the elderly, so that those who are already better off can put more cash in their checking accounts. We cannot afford to give tax breaks to people who don’t need them, and then increase taxes on the working poor and health insurance on the elderly.

It is interesting to note that many of my colleagues argue on behalf of this budget package by claiming it will benefit our children and grandchildren in the long run. They claim we will give our children a better economy and lower interest rates tomorrow by balancing the budget today. They fail to note that this plan cuts our investments in the future to do so: programs like Head Start and WIC and college loans and AmeriCorps.

I ask, what good will lower interest rates do for my children and grandchildren if we reduce their access to higher education and vocational training, ultimately limiting their ability to acquire the skills they will need to find a family wage job?

Moreover, the proponents argue these tax breaks will enable families to save more now for the future. However, current estimates reveal that these tax breaks will increase our Nation’s debt by roughly $93 billion. That’s $93 billion our children and grandchildren will be paying back through higher taxes later. This sounds like the 1980’s all over again.

It is imperative that we understand how this budget plan really impacts our children and families. How does this impact average Americans? Does this budget provide hope, or does it tell hardworking Americans they’re on their own? Does it provide security and safety for our children and elderly, or does it lead to uncertainty and anxieties? These are just a few of the important questions I considered when looking at this budget reconciliation. We should be providing hope for the families that are struggling to pay their rent, feed their children and care for their elderly parents. Instead, we are showing these families and their children that the only way to address these difficult issues is to cut the heart out of what makes us great—education, health care and good jobs.

Last month, I held a forum back in Washington State to talk about the varied issues surrounding Medicare. I expected one or two dozen to attend. Instead, over 500 people showed up to express their views. People are concerned. They are anxious, and not quite certain what a $270 billion Medicare cut means to them. How much more money will be taken out of their Social Security check each month? And what are seniors on a fixed income going to get for their sacrifice? I hope it is more than a tax break for somebody else. This budget is not providing certainty or hope. My constituents see difficult times ahead. They are wondering how they will pay for health care.

And then there’s Medicaid. This program serves the elderly in nursing homes, the adult disabled, pregnant women, and children—the most vulnerable in our society, and the working families that support them and care for them every day. This budget will take $187 billion out of Medicaid, do away with the standards of care, block grant the program, and let States decide who won’t have their medical costs covered.

The fears that working families have about the Medicaid cuts can best be summed up by a letter I recently received from a worried mother:

What will happen to our family when my mother, who has Alzheimer’s disease and lives with us, has no more funds and we can no longer care for her at home? My children work at education departments. Does this cut mean to my husband and me working. If one of us becomes unemployed or must take on full-time care taking responsibilities, we risk grave financial consequences for all of us.

The lack of social priorities isn’t the only problem in this budget. It fundamentally stalls the best economic development initiatives this country has in order to compete in the global marketplace.

There are over 30,000 Boeing employees in my home State on strike as we speak. There No. 1 issue is job security. The global economy and increased competition has made these employees, and many others like them, uncertain about the future. They increasingly look to us for support. They want to know what the Federal Government will do to help them compete in the global marketplace.

This budget provides no security or hope. Instead, it proposes deep cuts in trade promotion programs and trade adjustment assistance. It demoralizes the Commerce Department at a time when Secretary Brown has maximized
CONGRESSIONAL RECORD — SENATE

October 27, 1995

Perhaps the most successful of the proposals introduced today, I think, is Senator Hollings’ amendment to fund the Corporation for National and Community Service, which provides an opportunity for young people to serve in the community and the country, as well as an opportunity for our nation to be served.

I am concerned about the impacts of this budget and the way that it is structured. It is not good public policy. It is not in the best interests of our nation to balance the budget in the manner that has been proposed.

The American people are entitled to a budget that is fair and balanced, that is just and equitable, and that is responsible. The budget that has been proposed today is not that kind of budget. It is a budget that is based on cuts and reductions, not on investments and growth.

The cuts that have been proposed in this budget will have a negative impact on our economy and on our nation’s future. They will lead to job losses, to reduced economic growth, and to lower standards of living for all Americans.

I am concerned about the impact of these cuts on our nation’s investment in education, in health care, in research and development, and in our nation’s infrastructure.

We cannot afford to cut back on these investments. We need to invest in our nation’s future, not to cut it off.

The cuts that have been proposed in this budget will have a negative impact on our nation’s public services. They will lead to reductions in funding for programs that are essential to the well-being of our nation’s citizens.

The cuts that have been proposed in this budget will have a negative impact on our nation’s environment. They will lead to reductions in funding for programs that are essential to the protection of our nation’s natural resources.

The cuts that have been proposed in this budget will have a negative impact on our nation’s international affairs. They will lead to reductions in funding for programs that are essential to the security of our nation and to the security of the world.

I am concerned about the impact of these cuts on our nation’s future. We cannot afford to cut back on our nation’s investments and to cut back on our nation’s services.

I am concerned about the impact of these cuts on our nation’s environment. We cannot afford to cut back on our nation’s assets and on our nation’s heritage.

I am concerned about the impact of these cuts on our nation’s international affairs. We cannot afford to cut back on our nation’s role in the world. We cannot afford to cut back on our nation’s leadership in the world.

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The cuts that have been proposed in this budget will have a negative impact on our nation’s future. We cannot afford to cut back on our nation’s investments and on our nation’s services.
Mr. MURKOWSKI. Mr. President, an independent study of the Bureau of Reclamation's Government-owned, Government-operated aircraft service in Boise, ID, found that it saves more tax dollars than other options, including contracting out. Would the chairman agree that the committee did not intend to eliminate truly cost-effective programs that happened to be Government-owned and operated, such as that of the Bureau of Reclamation in Idaho?

Mr. MURKOWSKI. The Senator is correct. Let me assure the Senators from Idaho that we are committed to achieving the best and fairest deal for American taxpayers. We will work in conference to further clarify the changes in S. 1357 to address the concerns of my colleagues from Idaho.

Mr. KEMPThORNE. Mr. President, I think the chairman for making a clarification that I believe will serve the best interests of taxpayers and the efficient delivery of Government services.

Mr. MURKOWSKI. Mr. President, I also think we might be accommodating our concerns while preserving the fairness and cost savings of the Energy Committee's provisions.

Mr. LIEBERMAN. Mr. President, I am pleased that this bill contains the essential elements of S. 359, the Capital Formation Act of 1995.

That bill, which I cosponsored with Senator HATCH, had over 40 cosponsors. I am pleased that the bill before us contains a broad-based capital gains tax cut as well as a targeted provision which provides a sweetened incentive to invest in small businesses. I would have liked it if the real estate loss provision had been included in the Senate Finance Committee and I intend to work to see that that provision is included in conference.

I think it is important to understand that the benefits of a capital gains cut are not limited to the wealthy. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan has a state in this debate. We are talking about millions and millions of American families.

Unlike most other industrialized nations, we stifle savings and investment and are robbing that savings and investment.

This capital gains bill rewards those who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses, and hire more workers.

Of course, people who are wealthy can benefit from this proposal capital gains cut but only because they are willing to put their money in places where that money will create wealth. I would like to close with a quote from this year's Nobel Prize winner in economics, Robert Lucas. He said, and I quote, "When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all." Professor Lucas goes on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

I could not agree more on the need to increase available capital and I would invite anyone who does not think we have a problem with available capital to visit any of the thousands of economically distressed urban and rural countries across this country. While the capital gains provision before us reduces, but does not eliminate the tax on capital gains as Professor Lucas would prefer. I hope that you will join in supporting this provision.

Mr. BAUCUS. Mr. President, I voted for the resolution offered by the senior Senator from Pennsylvania which expresses the sense of the Senate that this body should enact a flat tax.

Our current Tax system is complicated and almost incomprehensible to many of our citizens who must comply with its provisions.
It is high time that we simplify the Tax Code. Simplification should and must be on the front burner. We need to consider a flat tax in our search for simplification. But, whatever we do, we must not abandon fundamental fairness and progressivity.

A number of questions remain to be answered with respect to the flat tax. What will be the impact of distorting the mortgage interest deduction or the charitable deduction? If companies can no longer deduct their contributions to employee pension plans or health care plans—will they continue to make those contributions? There are a lot of questions that need to be answered about a flat tax. But it does have one thing going for it. It has to be simpler than our current code.

As we develop an alternative to the current tax structure, we want to keep an eye on simplicity and fairness. We need an alternative to our current Tax Code. This sense-of-the-Senate resolution starts us on our way to structuring a simplified tax system.

EMPOWERMENT ZONE AND ENTERPRISE COMMUNITIES

Mr. LIEBERMAN. Mr. President. I had intended to offer an amendment with Senator Abraham to supercharge the enterprise communities and empowerment zones that were created in 1993. This amendment builds on S. 1252, the Enhanced Enterprise Zone Act of 1995, which I have introduced with Senator Abraham. Our effort has been very bipartisan—Senator Santorum, Morseley-Braun, DeWine-Breaux, and Frist have all agreed to sign on as cosponsors of S. 1252.

Across this country, there are differing views on the state of race relations, affirmative action, and minority set-aside programs like the 8(a) program. Racial divisions in this country have been highlighted by the O.J. Simpson trial and to some extent, I believe, by the Million Man March that came out of the Million Man March.

The differences across America on issues like affirmative action and 8(a) also exist among Members of the U.S. Senate. That being said, I believe that each and every Member of the Senate believes the following: that regardless of what we each believe we should do about the racial divisions in this country, what to do about affirmative action, and what to do about minority set-aside programs, we all believe that not enough is being done to help those people who live and work in and want to start business in the economically distressed urban and rural areas of this country. Any response to the economic distress in urban and rural areas which does not include a mechanism to attract businesses and jobs back to these areas is a response that is destined for failure.

Last week the Senate Small Business Committee held a hearing on S. 1252 and former Housing Secretary Jack Kemp had this to say:

"In my week in office so much the inability to reconcile the differences between the House and the Senate over the budget..."
one exception: children would be allowed to take a 10-year loan against this money for their higher education. Thanks to the wonders of compound interest, the amount would more than double, making it a potential source of economic growth unless we act now to block this potential. I believe Kid$ave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

That is good news for the future. But Kid$ave is not the only proposal on the table today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. When government deficits are factored in, U.S. net national savings is less than 2 percent of GDP. When our current trade deficits are added to our plummeting savings rates, the result is an immense disinvestment in our economic future.

While the Social Security trust fund is a credit to future generations, Kid$ave would create a savings pool that would soon be the largest in the country, available for investment directly in our economy. It would deal directly with our national savings problem. It would work for a long-term solution to the social and economic problems we face today, and for the long-term interests of all our children.

The proposal speaks to the problems we will face from changing national demographics. Because the baby boom is such a large population group, we will be imposing a vast financial burden on our children's generation to fund upcoming social security, pension and health care obligations, jeopardizing the long term availability of those programs to the following generations of America.

This will create what Profcsew Rudy Dornbusch of MIT calls a true crunch in world capital markets, since we share that demographics problem with our industrial competitors in Europe and Asia. That capital shortages—which means higher government and private sector borrowing to meet social and pension obligations and resulting sky high interest rates—will have serious ramifications for future economic growth unless we act now to head it off. The best course to take is to encourage a large buildup in private savings rates. Kid$ave tackles that problem head on.

One additional advantage of Kid$ave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. Not only will Kid$ave help families to have a tax cut in their lifetime, but it has been lost in recent decades, replaced by a credit card mentality. We would compound our problems if we pass such bad habits on to future generations. Kid$ave can help us turn the tide of in-debtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield in-calculable dividends for our nation and our children.

I would like to offer Kid$ave to all children in America. But I understand that revenue targets may require limits on who receives the credit. At least at the outset. I also understand that the Senate is divided between those who would like to cut taxes for middle-class families now and those who would prefer to balance the budget first. I believe Kid$ave can divide the Kid$ave advocates because it is a better kind of tax cut, one that helps us address the Nation's savings and investment crisis even as it provides tax relief.

But best of all, unlike any other proposal on the table, Kid$ave gives our children a tangible, financial head start on the rest of their lives.

In closing, let me say that whether or not a childhood tax cut is a good idea at this time, this is an idea that improves on that credit. Last week's Baltimore Sun carried an article coauthored by an unlikely pair: John Roher of the AARP and Martha Phillips of the Concord Coalition. As they point out, they do not agree on much, but they do agree that a Kid$ave-like approach to a tax cut makes sense. Mr. President, ask unanimous consent that the text of their article be printed in the RECORD and I would encourage my colleagues to take a close look at this idea.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 17, 1995]

IF WE MUST HAVE A TAX CREDIT FOR CHILDREN, DO IT THIS WAY

(BY MARTHA PHILLIPS AND JOHN ROTHER)

WASHINGTON—You can probably count on half the fingers of one hand the number of times recently that the Concord Coalition, which works with Congress, the American Association of Retired Persons, which advocates for the elderly, have been under the same umbrella policy battle. The current debate over the child tax credit is one of those rare instances of common ground.

We are dismayed at the prospect of enacting an unnecessary and large tax cut at this time—even one benignly labeled a "child tax credit." A benign" tax cut is the job of reducing the deficit that much tougher and leads to deeper program cuts than otherwise would be necessary, including cuts in programs that help children. The economy is not faltering, so there is little justification for stimulating it by pumping another $500 a year per child into consumer spending. Over the long term, a little more savings means more savings, which is the chief rationale for balancing the budget in the first place.

Congress and the president nevertheless have signed on to the child tax credit notion, so some version seems likely to be enacted. This is not to be a new children's Social Security, but I think we can think of an idea that Senators Bob Kerrey and Joe Lieberman and several others have been working on is much better than anything else we have seen.

Although the specific details remain to be worked out, their central idea is simple. A tax credit of $500 a year per child under age 18 only if the money is invested in qualified retirement accounts for that child's old-age security. Funds in the account would not be liquidated or withdrawn by the child at retirement age.

If the child saves the $500 credit every year from birth for 18 years, that would be a retirement nest egg of $8,000, plus another $4,000 to $18,000 in compounded earnings by the time the child reached age 18. That's nice, but it gets much better. Over every 40-year period since the Great Depression, diversified equity funds have generated returns of somewhere between 8 percent and 10 percent. So, if another $500 is added to the account after age 18, by the time the child reaches age 65, the account would be worth a quarter of a million dollars at a 6 percent real rate of return over three quarters of a million dollars at 8 percent. Leaving the initial $9,000 untouched until age 65 could result in $11.1 million at an average age 8 percent return.

These savings would be available to fuel long-term economic growth and could help provide not only future jobs but an improving standard of living for today's children when they are grown. The impressive results of compounding earnings of 8 percent would help assure old-age economic security for a generation whose prospects today appear uncertain. Since private pensions today cover fewer than half of all workers and since economic surveys show most households with inadequate levels of private retirement savings, it is clear that we need a new approach. The income from these individually-owned retirement savings would permit everyone in future generations to supplement Social Security benefits, as originally intended.

In order to minimize unnecessary risk and overhead, these retirement accounts could be administered by the same government-run employee retirement-savings program. There could be a wide range of investment options combined with the efficiencies and safety of large-scale investments in government bonds.

There will inevitably be pressure to permit non-retirement withdrawals from such accounts. Withdrawals for education or health-care needs may very well be in the child's best long-term interests, but any exceptions permitting early withdrawals must be narrow. The full retirement-income benefit to the individual will be at risk for early withdrawal, and one exception leads to pressures for others. Sensing the long-term benefit of this approach.

A PHASE-OUT FOR THE RICH

There is no need, of course, to give a $500-per-child contribution to children whose parents are already providing for retirement security, so the tax credit should be phased out for higher-income families with the option for those parents to contribute $500 yearly on an after-tax basis.

The intangible benefits of this approach may be hard to measure, but may ultimately be more important. Children who see a little prospect for their future will have a tangible stake in thinking longer term. The fact that these accounts exist in their names from birth over the years will carry, in the importance of other types of deferred-gratification behavior. We shouldn't discount the
impact that such accounts will have on our children, even though they cannot use them immediately.

Any legislative proposal must be evaluated in context as part of a budget package. We need to be especially sensitive to the impact of legislation on long-term reductions in tax changes on programs for children, working families, and vulnerable seniors. Again, our organizations do not think we should be cutting major tax cuts at this point. But if Congress is determined to enact a tax cut, we think it should consider this proposal first. It is good for our children, for the economic security and well-being it would provide for the next generation of Americans.

Lieberman and others are working on a proposal that would give children their retirement-age Americans. If Congress is determined to enact a tax cut, we need to be especially sensitive to the impact of any tax changes on programs for children, working families, and vulnerable seniors. Again, our organizations do not think we should be cutting major tax cuts at this point. But if Congress is determined to enact a tax cut, we think it should consider this proposal first. It is good for our children, for the economic security and well-being it would provide for the next generation of Americans. If we may disagree with the particulars they have introduced as legislation, and we may well disagree with the particulars they finally devise. But at bottom, the general proposal remains a very compelling option.

Properly structured, the children's saving credit offers a way to leave a legacy of savings, responsibility, and security to American families of all ages and income levels.

STOP THE BILLION DOLLAR GOLDEN GIVEAWAY:

Mr. BIDEN. Mr. President, the reconciliation bill promises to cut corporate welfare, save taxpayers' money and improve our national budget. It not only staked away, deep in the more than 2,000 pages of the bill, is a golden give-away of billions of taxpayers' dollars to a powerful special interest lobby.

Initially passed to encourage settlement of the West, the anachronistic 1872 mining law enables gigantic mining interests—many of which are foreign-owned—to purchase the right to mine Federal land for as little as $5 per acre. Literally, for the price of a McDonald's value meal you can buy an acre of Federal land, loaded with gold, silver, platinum and palladium. If this was not enough of a ripoff, the law does not require mining concerns to pay any royalties to American taxpayers for these minerals, an annual loss of roughly $100 million. The net effect of this law is simple: Foreign mining concerns benefit, and American taxpayers get the shaft.

The sham reform contained in the bill does little to change the current situation. Though the bill requires that fair market value be paid, it only applies this standard to the surface of what is often times, barren desert land. No consideration is given to the minerals, to the gold, silver and platinum, which are buried underneath the ground. It sounds good on its face—paying fair market value—but this alleged reform is nothing more than face-saving.

Our conservative colleagues argue endlessly that we need to run the Federal Government more like a business. But how could any business survive, even for a day, by opening its warehouse doors and giving away its product for free?

On top of these fraudulent prospects, the bill's grand fathering provisions guarantee the status quo for over 200 claims currently pending with the Minerals Management Service. These provisions include all manner of incentives—many of which are for mining conglomerates which abandoned the land, often times we are left with dangerous, toxic abandoned mines, which require millions of taxpayers' dollars to clean up. In fact, the Superfund national priority list of hazardous waste sites contains 99 properties associated with mining. The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans and caused them to lose faith in Government's ability to improve the lives of ordinary people. It ought to be rejected. The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better.

Mr. LIEBERMAN. Mr. President, I rise with a few thoughts on this bill overall. And on the cuts we are contemplating in the earned income tax credit (EITC) in particular.

This bill has a lot to recommend it. It provides incentives in the tax code for positive goals. The super IRA provisions will encourage savings. That is a constructive step forward. The capital gains piece will encourage people to put money where it will create wealth—that is to say it will encourage investment. While I've supported a middle-class tax credit, I think we could have made the credit even better by giving it to parents who set up retirement accounts for the kids. Those accounts would be governed by IRA rules with one exception—children under age 18 would be allowed to take a 10-year loan against their account for higher education. And I'm not enthusiastic about what this bill does to Medicare—not because this bill does too much, but because it does too little to change the built-in flaws in this program.

Overall, I'm encouraged by what this bill does to provide incentives for savings and investment and the creation of jobs and capital. However, in terms of incentives it falls woefully short in one area. That is in the dramatic and misguided cuts this bill makes in the earned income tax credit (EITC).

Let me be clear why I think the EITC and why I think that the Republican Party should embrace, not eviscerate this program. Put simply, the EITC provides an incentive to work. It promotes work over welfare and it does so through the Tax Code. Not through a new social service program run by bureaucrats in Washington. That is something the both parties should support and indeed, in the past, both supported the EITC.

President Reagan championed this program as the "best antipoverty, the best pro-family, the best job-creation measure to come out of Congress."

Last week in testimony before the Senate Small Business Committee, former HUD Secretary Kemp cautioned not putting back too far on the EITC "because that is a tax increase on low income workers and the poor which is unconscionable at this time."

I am particularly troubled that the Senate has cut $43 billion out of this program over 7 years, and it is nearly double what the House has cut from the EITC in their reconciliation package. And this cut of $43 billion is a dramatic increase in the cuts this Chamber agreed on during consideration of the budget resolution 5 months ago. That resolution assumed $21 billion in EITC cuts. I found that proposed cut distressing. We are now talking about nearly tripling that cut.

I find that downright alarming.

Here are the people we will hurt the most with this program: Workers without children who receive the EITC. These are workers with incomes under $20,000 a year, and families with incomes above $12,000 and; EITC families with two or more children regardless of how low their income.

In practical terms, about 17 million low- and moderate-income families—including nearly 13 million low-income families with children will feel the impact of these changes. In my home State of Connecticut alone, these changes would amount to an average cut of $311 for over 92,000 families. This simply makes no sense. It takes us further away from our goal of encouraging work and self-sufficiency.

Of course we ought to get rid of waste and fraud in this program. I believe the administration has done a commendable job in helping in that effort. But the increase in this program in recent years has been by design not by fraud and devisiveness. Congress voted against this program in 1986, 1990, and 1993. When the changes we made to the program in 1993 are fully phased in at the end of fiscal year 1996, the EITC will actually grow by very modest rate of 4.5 percent a year.

This program has had bipartisan support because both sides of this aisle have been able to agree that we should use both hands to applaud those who are working their way out of poverty and then use one of those hands to give them the help and support they deserve.

The Democratic Leadership Council with Mr. Lott, pleased to chair, has a long history of support for this program. The research and writing arm of the DLC, the Progressive Policy Institute
This year, both House and Senate have proposed reforms to the Earned Income Tax Credit (EITC) with the intent to save money relative to increasing the minimum wage. The EITC—which helps millions of low-income working families escape poverty—is an excellent example of the good that can come from political compromise, as well as the bad in its quest to reduce social welfare spending.

This is a program that should not go quietly into the night. Unlike the traditional welfare programs, the EITC is based on the principle of reciprocal responsibility: it says that the government is there to help, but only if you give something back or help yourself in the process. Republicans have supported the credit in the past, in fact, its biggest one-year boost occurred under President Reagan, in 1986. Why change now?

Specifically, the EITC assists low-wage workers by providing a wage supplement up to a certain level of earnings, at which the credit reaches a maximum and then begins to phase out. President Clinton’s five-year, $21 billion expansion of the EITC, approved in 1993, was designed to guarantee that families with full-time, year-round workers would not live in poverty.

But as the program grows— beware welfare with virtually no overhead costs or added bureaucracy, the EITC provides the foundation for any serious effort at welfare reform. The program could use some fine-tuning, but most of the charges leveled by critics are exaggerated or plainly incorrect.

Critics of the EITC, most notably Sen. Don Nickles, Oklahoma Republican, depict it as another out-of-control entitlement program, since its costs have doubled since it was extended. The EITC is one of the fastest-growing government programs, period.”

Mr. Nickles said. “It's growing much faster than Medicare.”

Detractors conveniently ignore, however, that Congress voted to expand the program in 1986, 1990, and 1993, in part as an alternative to increasing the minimum wage. This is in stark contrast to the major entitlement programs such as Medicare, which automatically grow every year with no congressional action. To depict the EITC as simply another exploding entitlement program is simply wrong.

White-Collar Fraud and Abuse. Critics of the EITC claim the program has a fraud rate of 35 to 45 percent, costing taxpayers billions of dollars. This statistic is based on a January 1994 IRS study and is inaccurate and misleading for several reasons.

First, that statistic is an error rate, not a fraud rate. If a worker claimed the credit but was $1 off, or claimed too little, this was included in the error rate statistic. Any of these inadvertent mistakes are corrected by the IRS. Nearly half of the supposed “fraudulent” claims were unintentional errors of this type.

Second, some taxpayers who claimed the credit in error (i.e., when they did not qualify) have been due, uncorrected, due to the complicated tax laws, and therefore failed to claim the credit, in error (i.e., when they did not qualify) have been due, uncorrected, due to the complicated tax laws. Third, the study was based on 1993 returns. Since then, the IRS has implemented new procedures to cut down on fraud, such as double-checking the Social Security numbers of all dependents claimed. Thus, the fraud and error rates will be much lower for 1994 and future tax years.

Work Disincentive. Some critics assert that the EITC is a net work disincentive, because the phase-out of the credit in effect applies an additional 16 to 21 percent tax to earnings within the phase-out range.

It is true that effective marginal tax rates are high in this range, and that the maximum allowable income to be eligible for the credit may be reduced. Nonetheless, recent research shows that the EITC still provides a large net positive work incentive. One study estimates shows that if market entrants worked only 40 hours annually, the expanded credit will increase the labor supply of low-income workers by 20 million hours per year. Since the average EITC recipient worked 1,300 hours in 1993, the final net benefit is probably much larger.

Suggested Reforms. We can get people to move from welfare to work, says the EITC and the EITC ensures that it will. This is why many Republican governors insist that the EITC is an indispensable part of welfare reform. Furthermore, the program is not perfect. Sensible reforms include:

Adjusting the phase-in and phase-out ranges to better serve families in the former and minimize the number in the latter. These changes will place more families in the work incentive range of the EITC without increasing its total cost. Shortening the phase-out will increase the marginal tax rate within the range, but it will affect fewer families. Texas Republican Bill Archer—which passed the Ways and Means Committee last Tuesday—does shorten the phase-out range.) Implementing further policies designed to cut down on fraud, such as requiring valid Social Security numbers for all applicants to prevent undocumented workers from claiming the credit. Finally, requiring firms to notify their low-wage workers that the credit can be applied to each paycheck, rather than collecting the credit at year’s end, can increase the EITC utilization by 5 percent. These changes will place more families in the work incentive range of the EITC without increasing its total cost.

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CONGRESSIONAL RECORD—SENATE

October 27, 1995

Mr. DAMATO. Mr. President, I rise today to discuss Senator OLYMPIA SNOWE's bill that my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill.

With prostate cancer striking 1 out of every 11 American men and breast cancer attacking 1 out of every 8 American women, we have an obligation to do everything we can to ensure that the best, most effective treatments are available to as many patients as possible.

The amendment expresses the sense of the Senate that Medicare should cover oral hormonal cancer drugs. Oral hormonal drug therapy is critical in treating cancers that have hormonal receptors beyond the prostate and in treating estrogen-receptor-positive breast cancer tumors. These drugs can play a vital role in the postsurgical treatment of this type of breast and prostate cancer because they help prevent the recurrence of these tumors and improve the quality of life for thousands of cancer patients each year.

In the Omnibus Reconciliation Act of 1993, we directed Medicare to cover several oral cancer drugs. However, the statute requires that those drugs be chemotherapeutic in nature and have been available in injectable or intra-venous form. Oral hormonal cancer drugs do not fall within this category. I believe this is an unintended result of a well-intentioned provision.

The result is that Medicare currently designates against half of all women afflicted with breast cancer by denying coverage for postsurgical drug treatments to those with estrogen receptor positive tumors. Because estrogen-sensitive tumors are more likely to strike post-menopausal women, this type of cancer disproportionately affects Medicare beneficiaries. Denying Medicare coverage for orally administered hormonal therapy is an obvious case of being penny-wise and pound-foolish. Hormonal therapy is a less expensive treatment option when measured against the cost of treating new tumors which can result in the absence of such therapy.

This relatively simple and straightforward amendment puts the Senate on record as expressing its concern about the oversight from the 1993 reconciliation bill. I believe that the conference report on the 1995 reconciliation bill should include a provision to cover oral cancer drugs used in hormonal therapy. I am glad that the Finance Committee raised this amendment, and I am glad to have been an original cosponsor.

Mr. CAMPBELL. Mr. President, I am delighted to learn that the Finance Committee included a provision that would allow tax exempt organizations to be eligible to maintain pensions under section 401(k). It is my understanding that tribal governments would be allowed to sponsor 401(k) plans under the budget reconciliation proposal reported by the Finance Committee.

In order to ensure that I am clear that tribal governments would, in fact, be included under this provision I would like to ask the distinguished chairman of the Finance Committee a question to clarify the Finance Committee's budget reconciliation proposal.

Mr. ROTH. I thank Senator CAMPBELL. I would be happy to answer his question.

Mr. CAMPBELL. Is my understanding correct that tribal governments are eligible to sponsor 401(k) plans under the Finance Committee budget reconciliation proposal?

Mr. ROTH. Yes; that is a correct statement.

Mr. CAMPBELL. I note the presence of the chairman of the Indian Affairs Committee, Senator MCCAIN, and ask if he would have any comments.

Mr. MCCAIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification proposal included in the budget reconciliation measure.

I also wish to thank this opportunity to thank Chairman ROTH for including language affecting section 403(b) plans in the pension simplification section of the bill that will remove a very difficult problem that arose from a misunderstanding about earlier authority provided to tribal education organizations. Several years ago some tribal governments began to purchase plans provided under section 403(b) of the Internal Revenue Code and experienced some difficulties. Those retirement funds, affecting several tribes and the retirement savings of thousands of tribal employees, are now in jeopardy. I introduced S. 1304 to fix this problem. Chairman ROTH included a similar provision in section 12941 of the bill, and I thank him for that.

Mr. CAMPBELL. Mr. President, I am pleased that this amendment has been agreed to. I hope it will be a step towards ensuring that every Puerto Rican man, woman, and child in America is more than $20,000 in debt. The current trends are not sustainable.
Mr. President, our balanced budget plan is not perfect. If there was an easy solution to our fiscal problems, you can rest assured that Congress would have already found it. I do agree with every provision in the bill before the Senate. If I could pick and choose, there are many priorities that I would change. On the balance, however, I think the product is a good one. It gets the job done. To my colleagues who disagree, I would say the following: you can’t beat something with nothing. If you do not like our balanced budget, you have an obligation to produce an alternative. President Clinton’s plan was recently rejected by the Senate. It is now.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long-term interest rates between 1 and 2 percent. On a typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $3,100. On a 30-year fixed mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

Mr. President, the Senate bill also provides significant tax relief. I know that many of my colleagues have expressed disdain at the idea of cutting taxes. They find it offensive to let American taxpayers keep more of their money. To stand as the only solution, to our Nation’s fiscal problems. The time for talking is over. The time for acting is now.

USEC PRIVATIZATION

Mr. WARNER. In title V of the bill before the Senate there are provisions that will provide for the privatization of the U.S. Enrichment Corporation. I understand the Energy Committee is also reporting this language out as a substitute to S. 755, a bill originally introduced by Senator DOMENICI to accomplish the same purpose.

Mr. President. I commend Senators DOMENICI, MURkowski, JOHNSTON, and others for their efforts to produce legislation that balances our country’s need for a private uranium enrichment company with a nonproliferation solution that assists Russia in its weapons dismantlement. However, as well as your assurance, that the language in the reconciliation bill will allow the Russian Federation an opportunity to be able to fulfill its obligations easily with options, perhaps those offered by U.S. private industry to assist where possible.

With regard to section 5007(c) of the reconciliation bill, the exclusion of U.S. Department of Energy facilities from production of highly enriched uranium. I want to urge the U.S. Enrichment Corporation to make use of sector services and facilities prior to making any contractual work agreements with the corporation.

Mr. MURkowski. Mr. President, it is true that our language allows USEC to contract with existing DOE facilities for activities and services other than the production of highly enriched uranium. To the extent that there is a longstanding government policy that the Federal Government not compete for work that the private industry can supply, I agree that the DOE should defer opportunities to the private sector.

Mr. WARNER. I thank the Senator. I wish now for clarification of section 5007(c), regarding USEC. Does this language provide for contingency private industry provisions to assist the Russians in meeting their obligations in the government-to-government agreement proposed in the United States with low enriched uranium derived from highly enriched uranium?

Mr. MURkowski. The government-to-government agreement for the 500 metric tons of highly enriched uranium contemplates the participation of the United States private sector and Russian enterprises in implementation of the agreement. Section 5012(b) facilitates this implementation by providing mechanisms for private sector entities to purchase the natural uranium component of LEU derived from Russian HEU either directly from Russia or in any auction process, in an open and competitive manner. The United States and Russia also have the ability to increase the quantities delivered in any given year and accelerate the delivery schedule of this material to the United States, provided that this material is introduced into the U.S. commercial fuel market in full accordance with this legislation.

Furthermore, neither this legislation nor the government-to-government agreement limits the ability of Russia to sell additional quantities of enriched uranium, in excess of 500 metric tons called for by the government-to-government agreement to third parties for delivery to the United States, subject to the market restrictions as stated in the bill before us and other applicable law.

All this legislation and its provisions will: First, advance the world’s nonproliferation goals; second, provide the Russian Federation immediate hard currency and, third, assist the Russian Federation in meeting future continuing obligations.

Mr. WARNER. Again, I commend you on this legislation that will promote the United States and Russia’s nonproliferation goals, offer each country an opportunity to use private industry to meet these goals, and present to the world a concerted effort to demilitarize.

Mr. LIEBERMAN. Mr. President, I would like to set the record straight on the need to reform the corporate alternative minimum tax. As we have under current law is a nightmare for investment for businesses of all sizes. The AMT is not working as Congress intended when it was adopted in 1986. We never intended the AMT to be a punitive tax that коmpanies that have no profit to borrow money to pay their AMT. Yet this is effectively what current law does to some companies.

There is bipartisan agreement on the need to fix AMT. President Clinton in
1993 recognized the need to fix the AMT and proposed shortening AMT depreciation recovery periods. To date, we have not adopted the President’s proposal in full. For this reason, earlier this year, I joined with Democrats and Republican cosponsors of S. 1000, a reasonable piece of legislation, to help correct this antiinvestment tax system.

While I commend the Finance Committee for taking some action on this issue, that action falls short of what ultimately needs to be done. There are two parts to AMT depreciation—method and recovery period. This bill fixes the first, but like the legislation of the United States or the State of Colorado. This legislation directs the Committee for taking some action on this issue.

Mr. CAMPBELL. The transfer of the Collbran project to the Collbran Conservancy District and Ute Water Conservancy District in the last fiscal quarter of 1990 in return for the payment of $12.9 million by the districts to the United States. The transfer to the districts includes the listed facilities and other assets that comprise the Collbran area, but excludes the Vega recreation facilities owned by the United States or the State of Colorado. Several questions have been regarding the legislation. First, some have raised a concern that it may impact or affect the Plateau Creek pipeline replacement project which has been proposed independently by the Ute Water Conservancy District.

Mr. CAMPBELL. The Committee carefully defined the scope of the transfer so that this legislation will have no affect on the proposed Plateau Creek pipeline replacement project, which will be subject to all requirements of the State and would exist if the transfer did not occur.

Mr. CAMPBELL. Another issue that has arisen is regarding the relationship between the legislation and the Endangered Species Act. In particular, questions have been raised regarding the effect of the payment of $800,000 by the districts for use as a part of the Colorado River Endangered Species Fish Recovery Program, and whether a section 7 consultation will be required for the transfer. My understanding of the legislation is that it has no effect on the Endangered Species Act, and that no determination has been made regarding the existence of any obligation or liability of the Colbran project or other existing water supply projects in the Colorado River Basin in Colorado with respect to species listed and critical habitat designated under the Endangered Species Act. In addition, because the transfer is mandatory, and will not involve any change in project operations or additional review or approval by any Federal agency, there is no need for a section 7 consultation on the transfer.

Mr. MURKOWSKI. That is correct. The legislation provides that, as a condition of the mandatory transfer, $800,000 of the total payment of $12.9 million be provided to the U.S. Fish & Wildlife Service for use in the Recovery Implementation Program for the endangered fish species in the Upper Colorado River Basin, which is intended to serve as a reasonable and prudent alternative for water depictions from any existing and future water projects in the Colorado River Basin in Colorado. In the event that any such determination is made in the future, and if the Recovery Implementation Program no longer serves its intended purpose, the Colbran project will be treated the same as any other existing, similarly situated nonfederal project in western Colorado, and the districts will be able to claim credit for this contribution to the same extent as any other entities which have made cash contributions to the Recovery Implementation Program.

Mr. MURKOWSKI. The transfer of the Colbran project to the State and other purposes. However, the lands to be conveyed to the districts do not include the undeveloped lands surrounding Vega Reservoir, as these lands are to be conveyed to the State of Colorado.

Mr. CAMPBELL. I thank my colleagues from Alaska the committee’s intent with respect to part E, subpart III of S. 1357, which provides for the sale and transfer of the Collbran project located in western Colorado. This legislation directs the Secretary of the Interior to transfer the Colbran project to the Colbran Conservancy District and Ute Water Conservancy District. The transfer of the Colbran project to the State and other purposes.

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Mr. LIEBERMAN. Mr. President. I wanted to express my concerns about our proposal that the Senate Committee was unable to include in its final tax package. It is a provision that was contained in the bipartisan capital gains legislation that Senator HATCH and I introduced. S. 959. The provision would change current law in ways that would be extremely helpful to families in my region of the country.

Under current law, when an individual or family sells its principal residence for a gain, and for whatever reason, does not reinvest all of the proceeds in another home, any gain from that transaction is generally treated as a capital gain, and is taxed at more favorable capital gains rates. Special rules apply to individuals over age 55. They are permitted to completely exclude from tax up to $125,000 of their gains from sales of their residences. By contrast, if an individual or family sells a personal residence at a loss, the loss is treated as a non-capital loss, and no part of the loss may be recovered. No capital loss rules for losses on residences are provided under current law. No way presently exists for a family to be made whole from a genuine economic loss.

S. 959, a bipartisan bill that has 45 cosponsors, included a provision to provide some relief to individuals who have experienced the true losses of S. 959 would permit capital losses treatment for loss on the sale of a principal residence. This provision is fair, because it provides that both losses and gains on sale will be treated as capital, not ordinary.

Until the 1980's, the possibility of suffering a loss on the sale of a principal residence was all but unthinkable. Then, starting with the oil price shocks of 1979, we have experienced a series of regional economic slowdowns and recessions that have caused the prices of housing to fall. These occurred first in the Southwestern states, and more recently in California and New England.

Several things—all bad—can happen when the value of a residence falls. In southern California and in New England in the early 1980's, homeowners began to experience what came to be known as the upside-down mortgage. Homeowners found that the value of their homes had fallen so much that the loan they had incurred had exceeded the outstanding debt of the mortgage. Thus, if the homeowners were forced to sell, they would come out of the deal actually owing their lender more money than they had from the sale. Then if the banker foreclosed on the portion of the debt, the homeowners actually owned income tax on the transaction. In 1992, it was estimated that 41 percent of the sales in California were in this upside-down position. The problem of upside-down mortgages in resolving itself in California, but it is a disaster for people caught in that bind. In New England, the downward trend in home values continues; thus, the problem of upside-down mortgages persists.

In my home State of Connecticut, many areas have experienced steep price declines since 1989. The median sales price for an existing home in Hartford was $165,900 in 1989. The median home price has since declined to $133,400. The purchaser of a median priced home in Hartford, in 1989, has lost, on average $32,500 or over 24 percent of their home value over a 5-year period. This represents a loss of roughly $6,500 per year.

Similarly, the median purchase price for an existing home in the New Haven-Meriden Metropolitan Area was $163,400 in 1989. The median home price in New Haven-Meriden metro areas has since declined to $139,600. The purchaser of a median priced home in New Haven-Meriden, in 1989 would have lost $23,800 or slightly more than 17 percent of their home value by 1994. This represents an average annual decline in home equity of $4,780. If people sell their homes at a loss, they have suffered a true economic loss. Moreover, it is a loss that may represent the loss of their biggest source of savings. People who experience a loss on the sale of their homes are often wiped out financially. The provision that Senator HATCH and I included in S. 959 permits capital loss treatment for these painful situations. Because of the mechanical operation of the capital loss rules, it may take many years for a family to recoup the true losses they have experienced. Still, the relief in S. 959 is only partial relief for some individuals. Because of the serious impact on families of these losses, it is only fair that we provide at least the capital loss relief as a form of rough justice so that these families can have some relief from the true losses they have suffered.

This important provision is contained in the House bill. It is my hope that the chairman and the conferees will be able to accept this provision during the conference. It would provide critical relief to families that have sustained genuine losses, and is in the best interests of fairness and family.

Mr. HATCH. Mr. President, I understand the concerns of my friend and colleague from Connecticut and am sympathetic to his position. This provision is an important one and is the right thing to do. A home is often the biggest and most valuable investment that most families ever make. It is only fair that an economic loss on that investment be treated the same as economic losses on other investments. I am personally confident that this provision will provide additional benefits to people who choose to regain a home sale of that home. Like Senator LIEBERMAN, I urge the chairman and the conferees to adopt this provision when it is considered in conference.

AMENDMENT NO. 287

Mr. KYL. Mr. President, there are a number of good things in this amendment, which was offered by my colleague from Arizona. JOHN MCCAIN.
the amendment were drafted differently and was more limited in scope. I would support it.

For example, they have consistently supported efforts to eliminate funding for the Market Promotion Program [MPP], a program that provides subsidies to companies that advertise American agricultural products abroad. Such programs are a reasonable and fundamental cost of doing business for any industry.

If the return on every dollar spent on export promotion is as good as MPP proponents suggest, as it is in terms of jobs and exports, then it would seem to be in the industry's own best interest to bear that cost itself.

I understand that the industry's resources are finite. One more dollar could always be spent on promotional activities, particularly if each dollar produces significant gains in sales. But at some point, the agricultural industry, like any other industry, decides that it cannot costs any more; that the marginal gains do not justify the additional cost. Once the industry defines that point of diminishing returns, it is not appropriate to ask taxpayers to subsidize additional promotional efforts that the industry itself is unwilling to finance.

The amendment also eliminates funding for 266 highway demonstration projects. I strongly support that. Earmarks for well-connected projects is one of the most unfair, least efficient, ways of allocating scarce transportation dollars.

The earmarkings in the House version of last year's National Highway System bill totaled more than $2 billion—funds that would otherwise have been allocated according to the more equitable distribution formula established by ISTEA. I am talking about the 16064 amendment because I served in the House version because I served in the Transportation Committee which, according to the ISTEA formula instead, Arizona would have gotten between $800,000 and $7.6 million more than it did under the bill. The three Arizona projects would most certainly be funded under this alternative approach—they all have merit, and are all of high priority—but the State would have had more to devote to other worthy projects as well. Twenty-seven other States would also have done better under the formula than they did under earmarking.

The Senate refrained from such earmarking last year, and I am pleased that both the House and Senate have refrained from support the provisions of the McCain amendment that would terminate 266 unstarted highway demonstration projects that were authorized or appropriated in prior years. The amendment also eliminates funding for North America. Tourism Administration [USTTA]. Like the Market Promotion Program that offers subsidies to the agricultural industry, the USTTA offers subsidies to the travel industry for promotional activities that I believe the industry ought to bear on its own.

There are other programs, however, that, in my opinion, should not be a part of this package. They are not pork. They are not corporate subsidies. I am talking primarily about the B-2 bomber. This is a program that is in the national interest. This is not an Arizona project, so I am not here to defend it because my State has a major economic interest in its production. I do not differ with my colleague from Arizona very often, but on this issue, I must.

Mr. President. the Nation's long-range bomber force consists primarily of two aircraft: the B-52 and the B-1. The 95 B-52's are all over thirty years old, and their ability to penetrate modern air defenses is doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

For forty years, the United States relied on forward presence, or the deployment of large forces in bases around the world. Engagement in almost constant constant maneuvers and exercises. With the decline in defense spending and the withdrawal of U.S. forces for overseas bases, the United States will rely increasingly on smaller military forces, operating principally in association with our allies. In the past six years alone, the U.S. Air Force has reduced its major overseas bases from 38 to 15—a reduction of 81 percent.

Rather than forward presence, current strategy calls for American power to be projected abroad in response to aggression in regional conflicts. The combination of a bomber with stealthy low observable, long-range, and precision strike capabilities provides the Nation with a competency never before achieved. With its range and large payload, B-2's can penetrate enemy air defenses and disrupt enemy advances in the critical early hours of conflict. Before other forces arrive. Later in the conflict, B-2's can strike deep to interdict enemy follow-on forces or high-value strategic targets without fighter escort.

I have two letters that I ask unanimous consent be printed in the RECORD—one from seven former Secretaries of Defense, and the other from the former air commander of the Desert Shield/Desert Storm Air Forces—that further expand on the vital importance of the B-2 bomber to the future Armed Forces of the United States.

For these reasons, I believe that the B-2 remains an integral component of our future national security, and I must, therefore, oppose the amendment.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:
The President. The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are writing you to express our concern about the impending termination of the B-2 bomber program line. After spending over $20 billion to develop this revolutionary aircraft, current plans call for closing out the program with a total of only twenty B-2's. The B-2's are capable of surviving in modern combat environments and offer long-range, and precise strike capabilities that are currently unmatched, and the eventual need to retire the B-2's. As the number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases.

The 96 B-1's were procured as an interim bomber until B-2's were available. Even after all twenty B-2's are delivered, the inventory of long-range bombers will total barely 200 aircraft. This is not enough to meet future requirements, particularly in view of the attrition that would occur in a nuclear war and the eventual need to retire the B-2's. The number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases. This will become increasingly difficult to use tactical aircraft in bombing missions. It therefore is essential that steps be taken now to preserve an adequate long-range bomber force.

The B-2 was originally conceived to be the nation's next-generation bomber, and it remains the most effective means of projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only three secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time-sensitive targets in a single sortie. And perhaps most importantly, its low-observable characteristics will allow it to reach intended targets without fear of interception.

The logic of continuing low-rate production of the B-2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of his story nor the end of danger. We hope it also was. It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it also the end of the Cold War was neither the end of history nor the end of danger. We hope it also

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the B-2 program. The debate has now shifted to the Senate and my concern with our future. How to finance vital national defense policy—has not once or twice, but continually—has not once or twice, but continually been a concern of mine in the past. I am deeply concerned with the future of the B-2 program and the United States. At the heart of the matter is the issue of whether or not to purchase this highly sophisticated weapon system.

The B-2 stealth fighter is the most advanced piece of technology in the world. It is designed to penetrate enemy air defenses and deliver a deadly payload to any target in the world. The B-2 can fly at high speed and at high altitude, making it difficult for enemy fighter jets to intercept. It is also designed to carry a large payload of up to 70,000 pounds, making it capable of carrying a variety of weapons, including cruise missiles.

The B-2 program was initiated in the near term. The Defense Department planned to purchase and field the B-2 in a few years. However, the program was delayed and the cost increased significantly. In the end, the B-2 was not ready for deployment until the mid-1990s. The cost of the program was estimated at $60 billion, making it one of the most expensive weapons programs in history.

The B-2 program was a joint venture between the United States and the United Kingdom. The United States contributed 70% of the cost, while the United Kingdom contributed 30%. The United States was responsible for the development, production, and deployment of the B-2.

The B-2 program was cut by the Bush administration in 1992. The program was then reduced to a single aircraft, which was delivered in 1995. The B-2 program was then suspended indefinitely.

I have always thought that our men and women in service deserve the best possible equipment. The B-2 is a superb weapon system, and I believe that it is a necessary part of our national defense strategy. However, the cost of the program has been a major concern. The B-2 program has been a significant drain on our defense budget, and it is important that we find a way to finance the program without compromising our national defense strategy.
Mr. D'AMATO. Mr. President, I would like to express to Chairman Portz and Senator Moynihan. I certainly understand and sympathize with the concerns raised by Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members on both sides of the aisle that reflect the concerns you have voiced today. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

Mr. JOHNSTON. Mr. President, I strongly support the provisions of this legislation opening the coastal plain of the Arctic National Wildlife Refuge in Alaska for oil and gas leasing, exploration and development.

Mr. President, the Arctic National Wildlife Refuge [ANWR] is seen by many as a place of great beauty. It is a place of vastness, a place where the land stretches farther than the eye can see. It provides important habitat for muskoxen, brown bears, polar bears, wolves, and millions of birds. The area contains wildlife in coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central area of the caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development ceased. During the years of exploration and production, the coastal plain region will still support wildlife, provide recreational opportunities, and be home to the Inupiat Eskimo.

Mr. President, the vegetation and wildlife in coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central area of the caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development activities began at Prudhoe Bay in the early 1970's. The caribou live alongside the structures related to oil and gas activity, such as roads, pipelines, and drilling pads, with no ill effects. In fact, while it is true that the porcupine caribou herd uses a portion of the coastal plain for 6 to 8 weeks each year, it is not true that this area contains core calving areas critical to the survival of the 150,000 animals which currently use the herd. In the first place, the herd calves throughout a huge expanse of territory in Canada and Alaska, including portions of ANWR. In some years, probably as a result of snow conditions or the presence of predators, only a very few caribou calve in the coastal plain at all. In other years, there is a higher concentration of calving in the isochronous area of the coastal plain. The widespread and annually variable distribution of calving strongly suggests that no one small portion of this huge calving area is critical to maintaining the viability of the porcupine caribou herd.

Finally, the human activity resulting from oil production would not be new to the coastal plain. Although human presence in the coastal plain region has been relatively light, there has been, and continues to be, evidence of man in the area. There have been three DEW line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the 1960's and three times in the past 10 years, and there have been, and continue to be, salary jobs in the area.

Mr. President, let me now turn to the crucial importance to our Nation of the Arctic National Wildlife Refuge. For the foreseeable future, oil will remain a critical fuel for the United States and other industrialized nations. Currently, the United States consumes approximately 17 million barrels of oil per day. The Department of Energy projects that under current policies, this may well increase to almost 23 million barrels per day by the year 2010. At the same time, domestic production will decline, resulting in a significant increase in foreign oil imports. DOE projects that domestic production of crude oil will fall from today's level of 6.8 million barrels per day to 5.4 million barrels per day in 2010, a decrease of 21 percent.

Imports of foreign oil are projected to increase substantially by the year 2010, making our Nation dependent on foreign oil for more than 60 percent of our oil needs. This level of import dependence is to our economic vulnerability, it is extremely dangerous for our country.

More significantly, as the Persian Gulf war tragically demonstrated, oil is an important strategic resource, and the struggle to control that region's vast oil reserves can disrupt the delicate balance of peace in the Middle East.

United States oil imports are so massive, and the use of oil is so ingrained in our economy, that a substantial demand for oil will exist for the foreseeable future—certainly well into the early decades of the 21st century. This conclusion remains firm in the face of the current, modest concern about increases in energy efficiency and the substitution of alternative fuels. These policies alone will not suffice. Unless domestic oil production is encouraged and pursued, oil imports may continue to rise, and rise significantly.

By any measure, the coastal plain of ANWR represents the primary prospect...
for domestic onshore oil and gas exploration in the United States. The opponents of opening the coastal plain argue that the amount of oil at stake is significant enough to warrant an additional 1002 area supply. However, a single field large enough to supply this country with all of the oil it consumes for 200 days represents a huge reservoir of oil. Eighty percent of all onshore oil fields discovered in the lower 48 States over the last 100 years have contained less than 1 day's supply.

According to the BLM, the mean estimate of oil thought to be economically recoverable from the 1002 area is 3.2 billion barrels. The range of estimated economically recoverable reserves runs from 400 million barrels to over 9 billion barrels. The probability of discovering economically recoverable oil has been estimated by that agency at 46 percent. The oil industry routinely considers probabilities of discovery in the range of 10 percent worth the payment of substantial bonuses for the right to explore for oil.

As many of my colleagues know, the USGS has recently completed its 1995 assessment of onshore oil and gas resources for the United States. In general, the assessment shows an increase in the amount of natural gas thought to be present in northern Alaska and a decrease in the amount of oil thought to be present in that area. The USGS has prepared a preliminary analysis of the oil potential of the coastal plain and has concluded in a draft memorandum that the mean estimate for oil in the 1002 area is slightly less than a billion barrels, with a 1 in 20 chance that some 4 billion barrels are present. The agency is currently in the process of gathering more information from the 1002 area to refine its very preliminary estimates. The BLM, it should be noted, continues to have confidence in its earlier mean estimate of 3.2 billion barrels for the 1002 area.

Since 1980, when we began to debate the issue of opening the coastal plain of ANWR, there have been numerous studies and estimates of the amount of oil likely to be found if the area is opened to leasing. These estimates have been made by the BLM, USGS, the Energy Information Administration, the GAO, the State of Alaska, the American Association of Petroleum Geologists, and others. These estimates vary considerably due to different methodologies employed, different interpretations of geologic data, and differing geologic engineering and economic assumptions that are made relative to the methodology.

As a result, it is difficult to directly compare these estimates. However, two important conclusions can be drawn from these estimates.

First, they all reflect a wide range of uncertainty, which is expected for an area that has not been drilled. Until we have reliable well data from the 1002 area, we simply have no way of knowing how great the potential of the area is. Second, all these estimates show a very large potential for oil and gas, with even the lowest estimates that have been made having an upside potential of an economic order of magnitude.

In addition to the benefits to the country provided by the oil itself, the Federal Treasury will also benefit. Under the ANWR provisions contained in the bill currently before the Senate, the CBO estimates that two lease sales in the coastal plain will occur between now and the year 2000, which will result in bonus bids totalling $2.6 billion. The legislation also continues to allow revenue from oil development with the State of Alaska—the same as other western States—which will mean that the Federal Treasury will receive $1.3 billion in new revenue during the next 7 years if the coastal plain is leased. Should oil be discovered and produced from ANWR in significant amounts, a steady stream of royalty income will also accrue to the Federal Treasury for many years to come.

In addition to the direct budget surplus for the Treasury, this measure provides that the Federal share—50%—of bonus bid revenues in excess of $2.6 billion will be made directly available for maintenance, repair, and rehabilitation projects at our Nation's national parks and refuges. This provision will provide a significant funding source for our parks that so desperately need more money.

Mr. President, oil and gas development on the coastal plain is a step that must not be postponed any longer. Most experts agree that it will take up to 10 or 15 years before commercial production could begin if the area is leased this year. Sometime between 2008 and 2014, the DOE estimates that production from Prudhoe Bay and adjacent fields, which currently account for 100% of our domestic oil production, is projected to decline to approximately 300,000 barrels per day. The minimum level needed to operate the Trans-Alaska Pipeline System [TAPS]. If we continue to delay exploration for oil on the coastal plain and develop what we find there, the TAPS could be forced to shut down, and we will have lost our ability to transport billions of barrels of Alaskan oil to waiting consumers.

When Congress enacted the Alaska National Interest Lands Conservation Act in 1980, we declined to designate a portion of ANWR as wilderness and specifically reserved for ourselves the decision on whether that area should be made available for oil and gas leasing. We directed the Secretary of the Interior to study the area and to make recommendations on whether to allow oil and gas development. In 1987, the Secretary recommended that oil and gas development be allowed to take place. Since that report was issued, the issue has been before us—which will cut projected Medicare spending by $270 billion and Medicaid spending by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spending per beneficiary be held to a growth rate of 4.9 percent, while private health insurance will continue to grow at a rate of 7.6 percent per person. It is just not reasonable to expect Medicare to grow by such a small amount, especially when we consider that 200,000 Americans become eligible for the program each month. Just within the 7 years covered by this budget reconciliation bill, Medicare will insure 3.7 million more people than the legislation currently specifies.

We have been told repeatedly by the majority that these $450 billion in cuts are necessary, particularly to save the Medicare program from insolvency.
But according to Medicare actuaries, only $89 billion is needed to extend the Medicare trust fund for 10 years. So why does this bill cut Medicare by $181 billion more than the experts say is necessary—and cut Medicaid by $182 billion? Because this budget reconciliation bill also contains $245 billion in new tax breaks. This will largely benefit the wealthiest in our country.

It is wrong to be making an unprecedented level of cuts to Medicare, Medicaid, and other critical programs while granting tax relief to people making over $100,000 a year. There are many low-income seniors and their families who have no choice but to shift the burden of their uncompensated costs onto their other patients in the form of a block grant and repeals Medicaid funding over to the States in the form of a block grant and repeals Medicaid program over to the states in the form of a block grant. This will force hundreds of thousands of middle-income seniors and their families to pay more for their uncompensated costs onto their other patients in the form of a block grant.

The IMPACT OF THIS BILL ON SENIORS

Under this bill, older Americans will be asked to pay more for their health care but can expect to get less for their money. The premiums that seniors pay out of their Social Security checks will double and could exceed $100 per month in the year 2002. On top of that, their deductible would go up by $100 each year.

I fear that these premium and deductible increases could make Medicare coverage out of reach for some seniors. Most older Americans have very modest incomes. Seventy-five percent of seniors on Medicare live on less than $25,000 a year. And in North Dakota, older Americans get by on even less: 70 percent of our state’s seniors have incomes of under $15,000.

Already, seniors spend 21 percent of their income for health care. In 1994, the average older American spent $2,500 for medical care, prescription drugs, and other health care expenses not covered by Medicare—and this figure does not even include the cost of long-term nursing home care, which averages nearly $40,000 a year.

In addition to costing more, the availability and quality of Medicare that older Americans receive could very well decline. That is because the portion of the cuts that do not fall directly on beneficiaries will be borne by doctors, hospitals, and other health care providers, who will be reimbursed at only 68 percent of the amount they get from private payors. As a result, these cuts could create a second-class health care system for the elderly.

This budget bill, with its $182 billion cut in projected Medicaid spending, could force hundreds of thousands of middle-income seniors and their families to choose between the substantial burden of nursing home costs also. It turns the Medicaid program over to the states in the form of a block grant and repeals the Federal guarantee for nursing home care for the 60 percent of nursing home care for the 60 percent of nursing home care beneficiaries who are eligible for Medicaid—many of whom have already used up their life savings in paying for their care.

CONSEQUENCES OF MEDICARE’S “NEW BLOCK GRANT” FOR THE NEEDY

Our Nation’s seniors are not the only ones who are being asked to pay the bill for tax breaks for wealthy individuals and corporations. Children will also lose under this plan to turn Medicare over to the States as a block grant. One in five children currently receive 22 percent less Medicaid funding over the next 7 years than our State is projected to need. Cutting provider reimbursement rates and enrolling more beneficiaries in managed care will not generate enough savings to offset the loss in Federal funding, so States will have no choice but to terminate coverage for some current recipients or to reduce the benefits offered.

IMPACT ON THE HEALTH CARE SYSTEM

I believe the cuts of the magnitude called for under this bill will also devastate the health care system, particularly in rural areas. The majority of the savings achieved in Medicare will come through reducing payments to hospitals, nursing homes, and other health care professionals.

One-quarter of all rural hospitals are already operating at a loss and are in danger of being shut down if their payments are reduced further. Rural hospitals are dependent largely on Medicare and Medicaid patients for their livelihood. Between 1983 and 1993, the number of rural hospitals dropped by 17 percent, compared to a 2 percent drop in urban hospitals. Patients and providers who are ready suffer from a lack of access to medical care, and additional hospital closings in rural areas will further exacerbate this problem.

Cuts of this magnitude cannot be absorbed within the Medicare system alone, so health care providers may have no choice but to shift the burden for their uncompensated costs onto their other patients in the form of higher fees. I do not think it makes much sense to force higher costs for medical bills and health insurance onto the rest of the population, thereby pricing health care out of reach for even more Americans.

A RESPONSIBLE MEDICARE ALTERNATIVE

I believe it is possible to balance the budget and protect Medicare at the same time, and I supported Senator ROCKEFELLER’s amendment that would have protected Medicare. But as with the Rockefeller amendment, Medicare’s projected spending would have been reduced by $85 billion, ensuring the solvency of the Medicare trust fund through 2006. This $85 billion is a far more moderate reduction and could have been achieved without new increases in costs for people who simply cannot afford to pay more for health care and without damaging our world-class health care system.

Senator ROCKEFELLER’s amendment would have been paid for by scaling back the tax breaks provided in this bill for wealthy Americans. It was the responsible course of action, but unfortunately, a majority of my colleagues did not agree. And the Rockefeller amendment was rejected by a 34-58 vote.

A BETTER CHOICE FOR MEDICARE

As with Medicare, I agree that we must control Medicaid’s rate of growth, but I cannot support the block grant approach provided for in this bill. As an alternative, I voted for Senator BOB GRAHAM of Florida’s amendment to reduce Medicaid’s projected spending by $181 billion more than the experts say is necessary.

IMPACT ON MEDICAID

Under this bill, older Americans will also lose the Medicaid benefit they represent 50 percent of all Medicaid beneficiaries but receive only 15 percent of the benefits—but it is important. The immunizations and preventive care that these kids receive help them to grow up to be healthy, productive adults. I think it is also worthwhile to note that fully half of the kids now covered by Medicaid are members of working families.

Under a Medicaid-block-grant plan, North Dakota will receive 22 percent less Medicaid funding over the next 7 years than our State is projected to need. Cutting provider reimbursement rates and enrolling more beneficiaries in managed care will not generate enough savings to offset the loss in Federal funding, so States will have no choice but to terminate coverage for some current recipients or to reduce the benefits offered.

IMPACT ON MEDICARE

One in five children currently receive 22 percent less Medicaid funding over the next 7 years than our State is projected to need. Cutting provider reimbursement rates and enrolling more beneficiaries in managed care will not generate enough savings to offset the loss in Federal funding, so States will have no choice but to terminate coverage for some current recipients or to reduce the benefits offered.

President Clinton has indicated that he will veto this bill unless these severe cuts are moderated. But it reaches his desk. It is my sincere hope that, after this bill is vetoed, Congress and the President will be able to work together to achieve a reasonable compromise that will provide the fiscal discipline the American people want from the Federal Government without sacrificing the health security they deserve.

Mr. ROCKEFELLER. Mr. President. In my view, every United States Senator will be making a statement about their fundamental priorities as they cast their vote on this reconciliation package. While each and every vote cast on this floor is key, today’s vote on the reconciliation bill is a pivotal one about the future of our country, and the role that our Federal Government can and should play in the lives and well-being of American families.

While most of our debates have focused on budget numbers, it is important to talk about the families and the real people who depend on Medicare, Medicaid, student loans and all the other major programs affected by this legislation. And many Americans want to see a balanced approach. The provisions of this bill will have enormous impact on children, families, and seniors in West Virginia and every State.
in this Nation. We should be mindful of them as we cast our votes.

I want to be clear. I believe we can and should restructure Federal spending and eliminate the Federal deficit. This is a vital goal, but it is equally important to ensure that the burdens of achieving a balanced budget are responsibly and fairly shared among all Americans. I pay 21 strong feel that we should not balance the budget on the backs of seniors, poor children, and working families.

The programs that would be drastically changed by this reconciliation bill often are the difference between security and insecurity, health and illness, and sometimes life or death for seniors and American families who depend on Federal programs for their health care security.

I was proud to take the lead in offering the first major amendment to this budget, designed to save Medicare, a historic program that has provided seniors with health care security since 1965.

But the solvency of the trust fund does not require cutting Medicare by $270 billion. Such extreme cuts will threaten the health care for 30 million seniors—$30,000 of them living in West Virginia—and further erode our health care system.

For seniors, the reconciliation package means that their Medicare deductibles will double and their premiums will skyrocket. When the average income of seniors citizens is $17,750, and they are concerned about the income on health care, they are incredulous and petrified to hear that their Medicare is being used to pay for tax breaks and tax give-aways to far, far wealthier Americans and every imaginable kind of corporation.

I cannot go back to West Virginia and hold town meetings in senior centers as I often do, and justify a vote to slash Medicare by $270 billion in order to finance tax breaks for the wealthy.

West Virginians believe in fairness and common sense, and this attack on Medicare flunks that test.

Our amendment was not to retain the status quo. We know we must make changes in the system to restore the solvency of the Medicare trust fund. But the solvency of the trust fund does not require cutting Medicare by $270 billion. Such extreme cuts will threaten the health care for 30 million seniors. No one should have to choose between a home and a hospital.

Medicaid funding by a whopping $187 billion over 7 years...

People need to understand what such harsh cuts mean. Medicaid covers poor children, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?...If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family?

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer’s Disease as long as she could at home. But as her mother’s illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother’s meager savings are exhausted, Julie may only get a partial tax credit and her mother will be forced to give up her nursing home care. What happens to these people and their families when we slash Medicaid funding?...

A real family, like the Helmick family of New Milton, WV, will be worse off. The child tax credit will not cover even a month of nursing home care for her mother. This is real story about a family hurt, not helped by drastic health care cuts in this package. In my State of West Virginia, over 21 percent of our residents rely on Medicaid so their are countless more stories and fears about what will happen to aging parents. And it won’t just be individual families hurst by the Medicaid cuts. The health care system in my State is fragile, rural hospitals are already closing, and West Virginia cannot absorb more than $270 billion in cuts without cutting necessary health care services, including basic issues like infant mortality.

A recent newspaper article made this point, clearly with a headline: "[Medicaid] Cuts may affect infant mortality." The article reports that my State, thanks to Medicaid-funded programs, has reduced its infant mortality death rate from 18.4 deaths per 1,000 in 1975 to 7.2 deaths per 1,000 in 1984 which is even better than the national rate of 8.0 deaths per 1,000 births. As Governor, I helped start the effort to reduce infant mortality, and I must protest any action that turns back the clock.

We should be making backwards steps on basic health care objectives like reducing infant mortality.

I understand that Medicaid needs reform and Democrats offered an amendment to help its families, like the Helmick family of New Milton, WV, and be worse off. The Helmick family has 6 children, ranging in age from 15 to 44. Mr. Helmick works full-time as a...
truck driver for a local construction company, and Mrs. Helmick is a full-time homemaker. In the past, they have used their EITC for baby formula and used trucks, so Mr. Helmick has reliable transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt, not helped. Families like the Helmicks cannot claim all of the child tax credit, and they will be hurt by the cuts in EITC; and I doubt that they will be able to get capital gains tax breaks either. For them, this package does little more than renew their cynicism since it re- neat on promises made just two years ago when we told families to play by the rules, go to work instead of on welfare, and we will offset your payroll taxes so that you do not have to raise your children in poverty.

Mr. President, I am not against the idea of tax relief. In fact, I would support a limited tax cut for the most needy families and some relief from burdensome taxes for companies that need it. But when you look at this bill, while it is artfully crafted to appear to have something for everyone, it is really a farce. It is full of tax pork for the wealthy and goodies for those who do not really need it. On the surface, how can anyone oppose tax relief for families? The Republican rhetoric is, as always, good—tax relief for families, and help for companies to create jobs. It sounds so tempting to give hundreds of billions of dollars away, but when you look at what Republicans are reality doing, and how they are doing it, you say “wait a minute.” Their rhetoric is one thing, but reality is another.

They are balancing the budget, but they will add nearly a trillion dollars to our national debt in the next seven years. They say the tax cut is “paid-for” by an economic dividend of $5,600 per family. But that is a lie. They are saying $224 billion to our accumulated debt over the next 7 years. In fact, if you add interest, the total is more like $268 billion. Republicans are borrowing money from the middle class they claim to be champi- oning in order to give money away to their fat-cat friends.

Think of it as a new credit card with a $1,500 a month. Every month you take home $1,500 after taxes and spend $1,600. You can do that because you have the credit card. You are charging $100 every month to your credit line. Well, after 5 months, you owe the $500 you owe the credit card interest. Then you decide, you don’t like spending more than you are making, so you force yourself to spend less. For the next 7 months, you bring your spending down from $1,600 a month to $1,585 a month, then $1,570 a month, then $1,570 a month, and so on until at the end of the year, you are spending $1,500 a month. You have a Balanced Budget. You are making $1,500 a month and spending $1,500 a month. Then you look at your balance you owe on your credit card, and guess what—you owe $500 plus interest. How did that happen? You went on a path to balance in June when you owed $500 plus interest, but in December you owe more than $800. It is because every month on the way to balance, you borrowed more to cover the interest you orded. So $55 dollars one month, $70 the next, $55 the month after that, and so on.

That is what this bill does. Sure, it gets us to balance by 2002, but along the way, we are going to overspend what we take in by nearly $1 trillion. Every year between now and 2002 we spend more than we take in. We borrow more to pay for this tax cut. That is $1 trillion added to our accumulated debt. And of that capital gains tax cut, $224 billion is this tax cut ($268 billion, if you add the interest). If we got rid of this tax cut, or reduced the tax cut to $5,600, our deficit every year would be nearly $5,600 billion. But what will the amount the American people owe, would be less.

This debate is about priorities. Do we want to run up the bill on all of us in order to give money to the wealthy to buy goodies? We are running up our national credit card so the richest Americans could buy goodies? We are running up our national debt. The amount the American people owe, would be less.

Another disturbing provision tucked into this package is the proposal to eliminate the 30 percent interest exclusion on loans to purchase employees stock ownership plans (ESOPs). As Governor of West Virginia. I worked closely with the workers of Weirton Steel to establish an ESOP that kept the mill open, and the community alive. Weirton officials question if they could have secured the financing necessary in the early 1980’s to create this ESOP without this tax incentive. Weirton Steel is the largest private employer in West Virginia in my State. Despite my earlier concerns, the able American steel industry has faced, Weirton Steel has not only survived, and the company alive. Weirton officials question if they could have secured the financing necessary in the early 1980’s to create this ESOP without this tax incentive. Weirton Steel is the largest private employer in West Virginia in my State. Despite the rocky roads that the Ameri- can steel industry has faced, Weirton Steel has not only survived, it has invested almost half a billion dollars in modernization so that it will be internationally competitive in the next century—and it remains an ESOP with involved employee owners. There are other successful ESOPs in West Vir- ginia, and I hope there will be more in future. We should not slam the door shut on such future ESOPs by elim- inating the incentives for start-up loans, in my view.

Mr. President, this legislation is nearly one thousand pages long—shudder to think about all the legislation considered quietly into this bill. It was presented to the Senate on October 23, 1995, and
we are expected to vote on the legislation with only four days of review. There has not been time to carefully analyze this massive legislation or to learn that every detail about their health care will be there for them when they need it. I am not willing to gamble with the health security of 92,000 miners and their widows.

I cannot abide such a tawdry provision in this or any reconciliation package. I appeal to whatever sense of justice my Republican colleagues have. I ask them to give up this corporate pay-off for coal miners and damage is done. This cruel little provision might have escaped the notice of many. In a package that gives away billions, this provision only deals with tens of million of dollars. But these millions mean security to the older miners and their widows. This small trust fund is all they have, and it stands between their security and a peace of mind, and financial ruin and destitution when illness strikes these aging miners.

This is a complicated issue with a long history, and I could go into excruciating detail. But the bottom line is that we cannot ignore the fact that the money that is keeping the retired miners’ health trust fund solvent to a group of special interests represented by high priced lobbyists. If I have said earlier, I want my colleagues to think about the real families that could be truly hurt by this package.

The day after the Finance Committee reported out their hard work that demolished the health security of more than 92,000 miners and their widows for the sake of a few of the biggest and most profitable companies in this country, I went back to West Virginia. I went back to tell miners and their wives what happened.

The miners I met with were reserved, as many miners are, especially older ones who have seen it all, strikes and cave-ins, shut-downs and lay-offs. They have suffered the loss of their own lungs and limbs. They do not have a lot to pass onto their families in temporal terms, but they have good hearts and an incomparable work ethic. They have lived and worked with the emphasis is on community and family and caring. And until the Senate Finance Committee action, they had their UMWA health card to get their health benefits and knew that it would protect their wives if they died too hard and too soon.

One miner who worked for decades in the mines told me starkly, “We’re worried to death.” He said, “Now it seems like the company is the one running the whole show. They want to do away with us when we were the ones that worked and built everything else.” His question was this, “What’s going to happen to me if I lose my benefits?” He answered his own question with, “They’ll probably put me in my grave before my time.”

Another miner, characteristically, worried about his wife who is a diabetic. “If she becomes ill and can’t continue the medicine, I do not know what would happen.” Today retired miners’ health benefits pay for prescription drug medication after they meet a modest deductible.

Under this reconciliation package, on page 1851, we are taking away the health care security of these miners, and we are reneging on a promise made more than 40 years ago by President Truman. In 1954, President Truman signed into law an act of Congress.

If this Senate and this society renege on this promise to a group of old frail miners, their wives and their widows, what are we worth? Does a promise have no meaning? Does a contract not matter? Can a law be repealed when it becomes inconvenient for a profitable, influential businesses?

Promises do have meaning for me. When I was elected by the people of West Virginia, I made promises to West Virginians that I would put their health care needs and their priorities and do my best to serve them and respond to their concerns.

This reconciliation bill simply does not respond to the real needs of West Virginia families, their wives and their widows, are we worth?

The Republican rhetoric is good, but the reality is that this bill will undermine health care for seniors, raise taxes on working families, and jeopardizes the health care for retired coal miners and their families.

This is a harsh package that hurts real people, and I strongly oppose it. With this legislation, we are walking from here on the wrong track for so many of the most needy individuals in our society, and the debate over this package has saddened me greatly. We can, and we should, do better as public servants.

I will vote no. And continue to fight against such unfair legislation.

Mr. Frist. Mr. President, before we vote on final passage of S. 1327, a historic piece of legislation, I wanted to submit for the RECORD materials presented to me by the United States Chamber of Commerce. The Chamber of Commerce is an ardent supporter of S. 1327, but believe that the final product is necessary to balance the Federal budget, streamline government programs and, importantly, save the Medicare Program. Included in these materials is a study prepared by the Chamber of Commerce regarding the economic impacts of Medicare. I commend this study to my colleagues and thank the chair.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U.S. Chamber of Commerce. Economic Policy Division]

The MEDICARE CRISIS: THE TAX SOLUTION IS NO SOLUTION

The only solution detailed by the Medicare Board of Trustees for achieving financial balance in the Medicare Program is an income tax. Unfortunately, this is no solution at all. Higher taxes will rob working individuals of their hard-won dollars, significantly increase the cost of health care, and bring the economy to the brink of recession.

The Trustees calculate that balancing the Medicare trust fund for the long-term requires us to immediately hike the Medicare payroll tax from 2.90% to 6.42%. While the tax increase may seem to amount to only a few percentage points, it amounts to hundreds of dollars to the typical worker, thousands of dollars to the small business, and billions of dollars for the economy.

The Chamber of Commerce suggests the following impacts on individuals, businesses and the economy:

For a worker making $30,000 a year, total Medicare payroll taxes paid would jump to $1,818 from the current $787. A small business employing 25 such workers would be liable for an additional $13,300 tax payment per year.

Aggregated across the entire economy, the effect would be to lower real GDP by $179.4 billion within two years and hold GDP about $9 billion below its 1994 level. This amount to a 3.1% decline in GDP in the short run. With economic growth projected to average less than 3% over the next five years, this decline could easily result in a recession.

These results are even more startling when you consider that you represent an optimistic evaluation, not a worst-case scenario.

OVERVIEW OF MEDICARE: WHY REFORM IS NECESSARY

Medicare is a nationwide health insurance program for older Americans and certain disabled persons. It is composed of two parts: Part A, the hospital insurance (HI) program, and Part B, the supplementary medical insurance (SMI) program.

Part A covers expenses for the first sixty days of inpatient care less a deductible ($116 in 1995) for those age 65 and older and for the long-term disabled. It also covers skilled nursing care, home health care and hospice care. Part B requires beneficiaries to pay a deductible of $716 in 1995, and then 20% of the plan charges after the deductible is paid. However, the HI earnings caps were eliminated. As a result, the HI tax applies to all payroll earnings.

Part B is a voluntary program which pays for physicians' services, outpatient hospital services, and other medical expenses for persons aged 65 and over and for the long-term disability.
disabled. It generally pays 80% of the approved amount for covered services in excess of the deductible. Medicare is a means-tested program. That is, income is not a factor in determining an individual’s eligibility or, for Part B, premiums paid. The program also extends to qualified disabled individuals younger than 65.

Over the years, tax revenues for Medicare Part A have exceeded disbursements, and so the remaining revenues have been credited to the Medicare HI Trust Fund. At the end of 1994, the trust fund held $128.2 billion.

CONCLUSION OF THE TRUSTEES

Each year, trustees of Medicare’s Hospital Insurance Trust Fund analyze the current status and the long-term outlook for the trust fund, and their findings are published in an annual report. The 1995 edition, issued in April, demonstrated that the Medicare system is in serious financial trouble. The program’s six trustees—four of whom are Clinton appointees (cabinet secretaries Bob Rubin, Robert Reich and Donna Shalala, and chairman of Social Security, Shirley Chater)—reported the following conclusions.

Based on the financial projections developed for this report, the Trustees apply an explicit test of short-range financial adequacy. The HI trust fund fails this test by a wide margin. In particular, the trust fund is projected to become insolvent within the next 6 to 11 years. (HI Annual Report, pg. 2)

The program is severely out of financial balance and substantial measures will be required to increase revenues and/or reduce expenditures. (pg. 18)

The HI program is severely out of financial balance and the Trustees believe that Congress must take timely action to establish long-term financial stability for the program. (pg. 28)

The Trustees believe that prompt, effective and decisive action is necessary. (pg. 3)

Obviously, the Trustees believe that the Medicare program deserves our careful, immediate attention. The following pages present the figures that led the Trustees to their conclusions.

WHERE MEDICARE STANDS TODAY

Medicare is a huge federal program. In 1994, Medicare expenditures reached $166 billion, just over half the size of Social Security: Expenditures grew 11.4% from 1993: Eleven cents of every dollar spent by the federal government is spent in Medicare: The HI trust fund represented one-fifth of total entitlement spending.

Between 1990 and 1994, Medicare grew at a 10.4% average annual rate, almost twice the 3% average inflation rate over the same period and twice the 5.1% average annual growth of the economy as a whole.

Medicare spending must be addressed as part of the solution to balancing the federal budget. That’s because spending on federal entitlements—Medicare in this case—and Social Security—soared 8.4% annually on average between 1990 and 1994. Spending on discretionary, annually appropriated programs—such as defense, education and infrastructure—increased 2.2%, which is less than the rate of inflation. Coming decades will see even more pressure for entitlement growth as the leading edge of the Baby Boomer generation reaches 65 in 2011.

Entitlements are not only the fastest growing portion of the federal budget; they’re already its largest component, as shown in the accompanying chart. Just over half of all federal expenditures are spent on entitlements. (pg. 28) In recent years, we’ve seen entitlements go to discretionary programs. If we are going to balance the federal budget—and keep it in balance over the long term—entitlement reform must be part of the solution.

WHERE MEDICARE IS HEADED IF WE DO NOTHING

Under current law, Medicare is projected by the Congressional Budget Office to grow at a 10.4% average annual rate over the next seven years. In 2002, the CBO projects Medicare spending will reach $344 billion, claiming almost 16 cents of every dollar spent by the federal government.

Moreover, beginning next year, Medicare HI expenditures will exceed the program’s revenues. The HI Trust fund, which at year-end 1994 held $132.8 billion, will have to be tapped to cover the projected $867 million difference.

However, according to the Trustees’ Annual Report, this shortfall isn’t temporary. Instead, it will balloon to be about seven times larger in 1997. Which is just the following year, and more than twenty times larger by 1999. Under assumptions reflecting the most likely demographic and economic trends, 1999 will be the first year of hemorrhage that will deplete the entire trust fund by 2002—just seven years away.

The optimistic set of assumptions buys us only a little time, with trust fund depletion projected in 2008. Under the pessimistic scenario, the fund is exhausted as early as 2017. Of course, within the next 6 to 11 years, it’s virtually certain that Medicare will be insolvent—unless we take action.

The danger was made clear last winter when the President’s Bipartisan Commission on Entitlement and Tax Reform, chaired by Sen. Bob Kerrey and then-Sen. John Danforth, issued its final report. The focus of the report was to look not years ahead, but decades ahead to assess the impact of federal budget trends. The report is sobering. Under current trends, virtually all federal government revenues are absorbed by entitlement spending and net interest by 2010, as shown in Chart 2. Deficit-financing will be required to cover almost all of the discretionary programs, including defense, health care, the FBI, support for education, and the federal judicial system.

Ten years later, this scenario is worse. Growth in entitlements is so explosive that not only would the government have to borrow to pay for discretionary expenses, it would have to borrow funds to pay the lion’s share of interest payments on the national debt.

MEDICARE’S IMPACT ON THE PAY STUB

In addition to detailing the projected disipation of Trust Fund under current law, the Trustees’ Report also describes the measures that would be necessary to shore up the trust fund over the next 25, 50 and 75 years. If the expenditure formulas are not altered, then preserving the trust fund can only be done through increases in the payroll tax or additional subsidies from general revenues. Table 1 illustrates the payroll tax increases that would be necessary to balance the trust fund.

CURRENT LAW

Currently, the combined (employee and employer) Medicare tax rate is 2.90%. Applied to all payroll earnings. A worker earning $30,000 a year in 1995, for instance, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and the firm don’t stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums in excess of the deductible, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don’t stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums in excess of the deductible, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don’t stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums in excess of the deductible, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don’t stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums in excess of the deductible, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don’t stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums in excess of the deductible, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don’t stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums in excess of the deductible, is directly taxed 1.45% or $435 annually, for Medicare Part A. the hospital insurance program. Employers then match that, for a total of $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.
To Balance the Medicare HI Trust Fund for the Next 25 Years (through 2019): According to the Trustees' analysis, the hospital insurance payroll tax rate would have to rise from 2.90% to 4.23% (a 46% increase) to keep the HI trust fund in balance for the next 25 years. Further, the increase would have to be made immediately and maintained through the entire 25-year period.

For our $30,000/year worker for whom $870 is currently provided to Medicare HI, this increase means an additional tax of $399, bringing total annual hospital insurance payroll taxes to $1,269. And that's before any other federal and state payroll taxes (such as unemployment insurance and Social Security) or federal and state income taxes.

However, even this increase in payroll taxes still leaves the trust fund exhausted in 2019, with the oldest of the baby boomers just shy of reaching their life expectancy. Because of this demographic bulge, balancing the HI trust fund over a longer period would require even higher payroll taxes.

To Balance the Medicare HI Trust Fund for the Next 50 Years (through 2044): Balancing the trust fund over the next 50 years—a span long enough to see most of the Baby Boomers through their lifetimes—would require virtually doubling the hospital insurance payroll tax from 2.90% to 5.58%. The increase would have to be made immediately and remain permanent through the entire 50-year period. Again, for the worker earning $30,000 a year, the total HI payroll tax rises from $870 to $1,674, an increase of 92.4%.

To Balance the Medicare HI Trust Fund for the Next 75 Years (through 2069): Balancing the trust fund over the next seventy-five years—roughly through the life expectancy of an individual born this year, and the usual period for long-term fiscal solvency—would require an immediate boost in the Medicare tax rate of 121.4%, from 2.90% to 6.42%. Total HI payroll taxes for a worker earning $30,000 a year would rise from $870 to $1,926.

MEDICARE'S IMPACT ON THE ECONOMY

Raising payroll taxes to keep the Medicare Hospital Insurance trust fund afloat imposes substantial burdens on both workers and firms. To measure what that means for the economy as a whole, we conducted several policy simulations using the highly respected Washington University Macro Model from Laurence H. Meyer & Associates of St. Louis, MO.

The results are striking: The economy would suffer through sharply slower economic growth and higher unemployment in the near term. Over a longer period, the economy is saddled with a permanent loss of production and employment. As shown in Tables 3 and 4, the degree of severity for GDP and employment depends on the increase in Medicare taxes enacted.

The tables compare each of three alternative tax simulations specified in the Trustees' Annual Report to LHM&A's June 1995 baseline forecast. To demonstrate the policy change working its way through the economy, we display the results for three of the ten years of our simulation: 1997, 2000, and 2004. This gives us snapshots of the short-term, intermediate-term and long-term impacts on output and employment. In each case, the imposition of the Medicare payroll tax increase takes place in the fourth quarter of 1995.

As shown in Table 3, if the government imposed the most modest payroll tax increase—enough to keep the Medicare trust fund in balance for the next 25 years—production in the economy would be 1.2%, or almost $70 billion, lower in 1997 than it would have been otherwise. By 2000, the percentage-point gap between the alternative closes to within 0.5% of the baseline level. Medicare production, but that distance is maintained even ten years after the tax increase took effect.

The short-term loss in output translates into 1.2 million fewer jobs relative to what we would have had otherwise, as shown in Table 4. While this decline, amounting to about 1% of the economy's jobs, moderates over time, the economy appears to have lost over 0.5% of its jobs permanently.

Of course, all of this economic turbulence puts Medicare HI trust fund in actuarial balance for only the next 25 years. To generate long-term actuarial balance for the full 75-year period, the Medicare payroll tax rate would have to jump from 2.90% to 6.42%, triggering even stronger economic impacts than those described above. Production in the economy would be about 3% lower in 1997 than it would have been otherwise, with the long-term loss in output projected at 1.5%. Over 3 million jobs would be eliminated in 1997 relative to the baseline, with a projected permanent loss of about 1.5% of total employment over the long term.

TABLE 2.—MEDICARE HOSPITAL INSURANCE PAYROLL TAX ANNUAL EMPLOYER TAX LIABILITY (in dollars)

<table>
<thead>
<tr>
<th>Number of employees</th>
<th>$5</th>
<th>$10</th>
<th>$25</th>
<th>$50</th>
<th>$100</th>
<th>$500</th>
<th>$1000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average salary $20,000</td>
<td>1,450</td>
<td>2,900</td>
<td>7,250</td>
<td>14,500</td>
<td>29,000</td>
<td>145,000</td>
<td>290,000</td>
</tr>
<tr>
<td>Current low</td>
<td>2,115</td>
<td>4,230</td>
<td>10,575</td>
<td>21,150</td>
<td>42,300</td>
<td>211,500</td>
<td>423,000</td>
</tr>
<tr>
<td>25 yrs</td>
<td>2,390</td>
<td>4,780</td>
<td>12,900</td>
<td>25,800</td>
<td>51,600</td>
<td>258,000</td>
<td>516,000</td>
</tr>
<tr>
<td>50 yrs</td>
<td>3,210</td>
<td>6,420</td>
<td>16,050</td>
<td>32,100</td>
<td>64,200</td>
<td>321,000</td>
<td>642,000</td>
</tr>
<tr>
<td>75 yrs</td>
<td>3,760</td>
<td>7,510</td>
<td>18,775</td>
<td>37,500</td>
<td>75,100</td>
<td>375,000</td>
<td>751,000</td>
</tr>
<tr>
<td>Average salary $30,000</td>
<td>1,915</td>
<td>3,830</td>
<td>9,650</td>
<td>19,300</td>
<td>38,300</td>
<td>193,000</td>
<td>386,000</td>
</tr>
<tr>
<td>Current low</td>
<td>4,870</td>
<td>9,740</td>
<td>24,350</td>
<td>48,700</td>
<td>97,400</td>
<td>487,000</td>
<td>974,000</td>
</tr>
<tr>
<td>25 yrs</td>
<td>5,315</td>
<td>10,630</td>
<td>26,530</td>
<td>53,100</td>
<td>106,300</td>
<td>531,000</td>
<td>1,063,000</td>
</tr>
<tr>
<td>50 yrs</td>
<td>7,095</td>
<td>14,190</td>
<td>35,490</td>
<td>70,900</td>
<td>141,900</td>
<td>709,000</td>
<td>1,419,000</td>
</tr>
<tr>
<td>75 yrs</td>
<td>8,250</td>
<td>16,500</td>
<td>41,250</td>
<td>82,500</td>
<td>165,000</td>
<td>825,000</td>
<td>1,650,000</td>
</tr>
</tbody>
</table>

TABLE 3.—IMPACT ON GROSS DOMESTIC PRODUCT

<table>
<thead>
<tr>
<th>Years to balance HI trust fund</th>
<th>Required Medicare tax rate (pct)</th>
<th>Difference from baseline in given year</th>
<th>Percent difference from baseline tax in given year</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 yrs</td>
<td>4.23</td>
<td>68.4</td>
<td>-30.1</td>
</tr>
<tr>
<td>50 yrs</td>
<td>6.42</td>
<td>79.4</td>
<td>-75.4</td>
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<tr>
<td>75 yrs</td>
<td>8.25</td>
<td>10.57</td>
<td>-90.5</td>
</tr>
</tbody>
</table>

TABLE 4.—IMPACT ON EMPLOYMENT

<table>
<thead>
<tr>
<th>Years to balance HI trust fund</th>
<th>Required Medicare tax rate (pct)</th>
<th>Difference from baseline in given year</th>
<th>Percent difference from baseline tax in given year</th>
</tr>
</thead>
<tbody>
<tr>
<td>25 yrs</td>
<td>4.23</td>
<td>-1.2</td>
<td>-0.6</td>
</tr>
<tr>
<td>50 yrs</td>
<td>6.42</td>
<td>-1.2</td>
<td>-0.6</td>
</tr>
<tr>
<td>75 yrs</td>
<td>8.25</td>
<td>-1.2</td>
<td>-0.6</td>
</tr>
</tbody>
</table>
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TABLE 4.—IMPACT ON EMPLOYMENT—Continued
(Balancing the HI Trust Fund Through Raising Payroll Tax Rates)

<table>
<thead>
<tr>
<th>Years to balance HI trust fund</th>
<th>Required Medicare tax rate (pct.)</th>
<th>Difference from baseline in given year, millions of jobs</th>
<th>Percent difference from baseline in given year (pct.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 yrs</td>
<td>15.2</td>
<td>-1.6</td>
<td>-0.1</td>
</tr>
<tr>
<td>75 yrs</td>
<td>15.2</td>
<td>-1.1</td>
<td>-0.1</td>
</tr>
</tbody>
</table>

As dramatic as these figures are, there's good reason to believe that they are optimistic estimates. Because the macro model used in these simulations treats the Medicare payroll tax like the Social Security payroll tax, the increases in the tax rates apply only to the first $41,200 earned (in 1995, and rising after the sixth). Spence is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly larger costs, and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

It is important to note that, even with the set of numbers presented here with its inherent bias toward underestimating the economic impact, we can see that uniting payroll taxes to balance the Medicare trust fund imposes severe costs on the U.S. economy. These results clearly indicate that the Medicare problem must be solved by fundamental program reform, not tax increases.

U.S. CHAMBER OF COMMERCE—MEDICARE FAX POOL RESULTS

On October 11, 1995, the U.S. Chamber surveyed 9,700 business, chamber and association members on their attitudes concerning Medicare program reform and specific reform elements. Responses to the Chamber survey (nearly 10 percent responded, 68.9 percent of which employ fewer than 50 workers) indicated strong support for market-oriented Medicare reform comparable to the House and Senate Majority plans for Medicare reform. The complete survey and results are provided below.

Medicare is severely out of financial balance, and the Trustees believe that prompt, effective and decisive action is necessary.

Medicare reform has become a focal point of the budget debate. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to the Trustees. Spence is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly larger costs, and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

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Mr. DOLE. Mr. President, as the Congress moves toward final action on the budget reconciliation legislation for this year, I want to call special attention to an initiative by Gov. Pedro Rossello of Puerto Rico which seeks to establish a wage credit-based economic opportunity zone in Puerto Rico as an alternative to the current law section 936 tax credit.

Neither the House nor Senate was able to give the Governor's proposal an extensive examination before either body voted to send the section 936 credit to the President. Together with my colleague from New York, Senator D'Amato, I was pleased to ensure that the Senate version more appropriately recognizes the needs of that most American countries have on the Puerto Rican economy and the jobs they provide.

I commend Governor Rossello's efforts to enhance economic opportunity in Puerto Rico through the creation of new jobs, and I would hope that the Congress will continue to give serious consideration to the Rosello program as an alternative to programs such as the current section 936 credit. Together with my colleague from New York, we were the first to make this proposal.

Mr. LEVIN. Mr. President, the Arctic National Wildlife Refuge has been managed as one of the great wilderness systems on this continent since the Eisenhower administration. It is on par with other great places in our national history, including the Grand Canyon, Yellowstone, Jackson Hole, the Badlands, Glacier Bay, Denali, and others.

Opening the Arctic Refuge to oil and gas development would weaken our stewardship commitment to future generations, fails to use common sense about balancing the budget, and destroys a highly threatened piece of our American heritage and cultural treasure—land that must serve our entire nation for the next century, not just a few for the next few years.

Unnecessary development of significant Federal lands like the Arctic Refuge is not the way to balance the budget. The amount of oil that can potentially be recovered from the Arctic Refuge is simply too small to affect our energy security, and too destructive to the environment, to be worth it. The U.S. Geological Survey estimates over 148 million barrels of oil in the refuge. The Congressional Budget Office assumed 3.2 billion barrels in its budget scoring of oil and gas leases, more than 20 times this recent USGS estimate. Worse yet, CBO assumed oil prices of $38.60 in 2000, compared to Energy Information administration estimates of only $19.13—or less than half.

And, it is possible that 90 percent of the lease revenues could go to Alaska instead of balancing the Federal budget. Under the most favorable scenario, only 50 percent of the revenues go to balancing the budget.

Clearly, the $1.3 billion we have been promised by CBO in return for developing this pristine area is a massive fiction, like so many other official cost estimates. These revenues fall another 40 percent after the lease revenues could go to Alaska instead of balancing the Federal budget.

We all hope for another strike like Prudhoe Bay. But the simple reality is that a single well will not make up for the adverse affects on the local and national economy. The OMB has estimated oil and gas revenues more realistically to be between $750 million and $850 million, assuming Alaska does not sue for a 90 percent split. If the State does, these revenues fall another 40 percent.

All hope for another strike like Prudhoe Bay will be quickly patched together with little debate. The constraints imposed by the rules under which the budget reconciliation bill is being considered create an absurd situation in which important, complex, and difficult decisions are made without debate. In addition, because a long stack of votes are occurring at 7½ minute intervals, there is little time to properly consider each provision. This is exacerbated when amendments are quickly patched together with little warning on the floor.

Mr. LEVIN. Mr. President, I voted against the combined Harkin and Dorgan amendments. The constraints imposed by the rules under which the budget reconciliation bill is being considered create an absurd situation in which important, complex, and difficult decisions are made without debate. In addition, because a long stack of votes are occurring at 7½ minute intervals, there is little time to properly consider each provision. This is exacerbated when amendments are quickly patched together with little warning on the floor.

In this case, I oppose the capital gains portion of the Dorgan-Harkin combined amendment. While I do favor sweeping capital gains reform, focused on long-term capital gains investment, in my view, the provision goes too far by imposing a lifetime limit of $250,000 on capital gains deductions. The Tax Code...
is complex enough without adding a restrictive difficult to administer, lifetime provision such as this.

In the Harkin portion of the amendment which attempts to further restrict the so-called Benedict Arnold loophole.

Because the two amendments were joined together as part of the Senate Floor, I could not vote on one and against the other. Therefore, I voted no on the amendment.

Mr. FRIST. Mr. President, I would like to speak briefly in support of the anti-trust provisions of section 15021 of the House Medicare bill. While these provisions are not in the Senate Medicare bill, they are important, because they permit doctors to form their own networks without having to go through an institutional intermediary such as another HMO or an insurance company. I urge my colleagues to support the provisions when this bill goes into conference, as they are just the sort of law reforms that will improve the quality and lower the cost of our health care system.

I would first like to discuss how the House Medicare bill defines a Provider Service Network (PSN), as it is more commonly known, a "PSN"). In the House Medicare bill, a PSN is one of the new organizations that provides Medicare beneficiaries with an option called MedicarePlus. That option allows a beneficiary to select a health plan called a MedicarePlus Product that would be offered by a MedicarePlus Organization. A MedicarePlus Organization is a private sector organization, such as an HMO, that offers a health plan that meets Federal Medicare standards. A Provider Sponsored Organization or PSO is a type of MedicarePlus Organization which is owned and operated by affiliated providers, such as hospitals and physicians. A PSO is a health plan owned and operated by providers that contract with a Provider Sponsored Organization to provide services to Medicare beneficiaries.

The trust law effectively makes it illegal for a group of physicians to set up a PSN or Provider Sponsored Organization, yet permits insurance companies, HMO's and other nonphysicians to do so. This does not make sense.

Why do we want to reform the anti-trust restriction so that physicians can form PSN's and directly compete with insurers? HMO's for Medicare beneficiaries? Because permitting physicians to do so will bring physicians to the table and encourage increased competition that will provide Americans with better quality health care at a lower price. By permitting physicians—rather than just accountants—to oversee the treatment systems, Medicare beneficiaries will receive better quality care. By removing an insurance company's administrative costs from the picture, Medicare beneficiaries will likely see more of their health care premium dollars go to patient care and less to overhead.

It should be made clear that section 15021 of the House bill does not exempt physician networks from antitrust law. If, for one, would oppose it if it did. I too believe in competition. But we must be held accountable under the antitrust laws if they in any way engage in anti-competitive price fixing.

Under the House Medicare bill, physicians would remain subject to all of the antitrust statutes that currently exist. The only limitation on antitrust enforcement is that physician created networks which meet the standards for PSN's (as set forth in section 15021(b)(6) of the House bill) would not be considered automatically unlawful. If the formation or operation of these networks can be shown to harm competition, then the DOJ, FTC, or a private party could challenge them. This is precisely the same rule which applies to the formation and operation of joint ventures in other industries in America. This provision does not exempt physician networks from the law. It holds them accountable for their actions, while giving them the opportunity to compete.

I again urge all of my colleagues to support the antitrust provisions of section 15021 of the House Medicare bill.

Mr. HATCH. Mr. President, while we are considering the manager's amendment to S. 1357, the Balanced Budget Reconciliation Act, I want to take this opportunity to comment on the health provisions contained within the bill and on some of the changes made therein.

First of all, I know there is a great deal of consternation about the impact of the reductions in spending growth for Medicare and Medicaid contained within this bill.

Medicare and Medicaid have been tremendously successful programs by any measure, providing life-saving and life-sustaining services to literally millions of persons over the last three decades. These programs need to be continued.

What we cannot continue, though, is the high rate of growth in these entitlement programs. This growth, quite simply, is contributing significantly to the deficit situation which is bankrupting our country.

Mr. President, there is no disagreement on either of these points.

As I see it, the question before us today is not whether to act but, rather, how to act.

The question is not "Why?" as some assert, but rather the more critical "Who, what where, when, and how?" We bring these programs under fiscal control while preserving vital services for the people who need them. It is clear that we are poised to act on a bill with very far-reaching ramifications. This is not a responsibility I take lightly.

Indeed, the prospect of reforming programs which have become such an integral part of America's health care delivery infrastructure over the past 30 years is a daunting one. The implications are enormous—enormous for all participants in the health care system, be it patients or those who provide services to patients.

Consider how intertwined the Medicare and Medicaid programs have become with our health care delivery system.

A whole generation of facilities has been built based on funding from the Federal Government. A whole generation of health care professionals has been trained with funding from the Federal Government. With many academic health institutions continuing to rely heavily upon Medicare graduate medical education funds for their viability. Facilities providing care to the underserved in both rural and urban areas count on Medicare revenues to keep from closing their doors. And, coverage policy in every private health care plans and our military health care system have been designed around Medicare policy.

Viewed from another perspective, more than a generation of Americans have come to rely on the services provided under Medicare and Medicaid. This is true for our seniors and disabled who are eligible for Medicare, and for the pregnant women and children, the aged, the blind, and the disabled who receive services under Medicaid.

The prospect of the reforming this system can be threatening to all I have worked hard, because it represents a change, a change from the norm we have all come to accept.

But I ask you to consider how different the America of 1995 is from the America of 1965. The health care of today is very different from that of 30 years ago. We have come a long way. Life expectancy has improved dramatically thanks to the fruits of medical research and technology. Fee-for-service medical care is no longer the only option for delivery of services.

But we have paid a heavy price for those improvements. Continued increases in health care costs run rampant, have fueled the deficit, and have priced health care out of the reach of many, with a concomitant impact on the Medicare roles and the States' ability to provide services.

I implore my colleagues to see the changes in this bill today as an opportunity to make the system better and more responsive to our national needs, needs which extend beyond health care services to indeed, the health of our country as a whole.

The deficit situation cannot be ignored any longer. It is unfair to our children, and to their parents and grandparents.

The alternative to change is foreboding. The costs of these entitlement programs is running out of sight, endangering the future viability of the programs as well as the Federal and State budgets. The Medicare's hospitalization trust fund could go bankrupt, starting as early as next year. The work of the Medicare...
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Trustees, reinforced by testimony the Finance Committee heard from the former Chief Actuary of Medicare, Guy King, indicates that we will need at least $157 billion on August 28, 2002, and fund alone to stave off bankruptcy by 2002. Payment for physician services under Medicare, funded 88.5 percent from tax revenues, is rising in double digits.

Medicaid spending also remains troublesome.

The Congressional Budget Office has estimated that the Federal share of Medicare will grow over 10 percent a year beginning from next year, about 3 times the projected rate of inflation.

The changes made in S. 1357 are a good start to resolve these problems.

For Medicare, the bill provides greater opportunity for seniors and the disabled to participate in innovative care programs, many offering the possibility of benefits beyond the traditional Medicare package such as preventive services, eyeglasses, and prescription drugs.

It is clear that the health care marketplace has been undergoing dramatic changes over the last several years and that further changes will occur.

As new types of provider organizations and reimbursement practices have evolved over recent years, many observers note that the traditional doctor-patient relationship is being redefined.

There are complex and novel issues presented by the introduction of many new nonphysician decisionmakers in the care of patients.

Tensions often are apparent between the twin goals of providing high quality care and providing this care at reasonable costs. That became evident in our consideration of S. 1357, as we struggled to make certain that the bill allows Medicare beneficiaries to have the flexibility and the opportunity to participate more in the medical marketplace, while still maintaining a marketplace which allows doctors, nurses and other health care professionals to continue to practice traditional medicine.

There is no doubt that coordinated care offers abundant opportunities for our citizens, including those who participate in the Medicare and Medicaid programs, to receive quality health care services in the most cost-effective setting.

On the other hand, as we enter this new era in which managed care becomes the norm, it is imperative that the overriding goal be to save lives, not dollars.

What I am saying is that managed care is an important option in the health care continuum, but so is traditional medicine.

Fee-for-service medicine must be maintained as an option for patients who are more comfortable with that kind of care, as well as for providers who do not wish to join the managed care environment.

One of the major innovations in this reconciliation bill is that it will encourage the further participation of Medicare enrollees in managed care plans. A key feature of the legislation is that it allows individuals to choose care within the system in the form which best meets their needs. This bill allows American citizens, not the Federal Government, the freedom to make this choice.

I think it critical that Medicare beneficiaries be allowed to choose the provider of their choice, if this is important to them. In fact, the bill contains a provision I authored which will make certain that beneficiaries are provided with the information they need to gauge whether the choice plan they contemplate joining allows them this freedom.

At the same time, I do not think it is fair for the Congress to require that all managed care participants in Medicare do have flexibility under the current bill.

I also want to note, in turn, that health care providers will face individual choices in the future. Some aspects of health care delivery system best meets their career plans. Some will prefer a managed care environment, while others will not. They, too, must have the freedom to make that choice.

And that freedom must not be in name only.

For some time, I have been concerned that we are destroying the incentives for providers to practice good medicine in America. Limitation concerns, cost constraints, regulations which impede technology development, change in medical education reimbursement—all these can have a stifling effect on the ability of health care professionals to be satisfied with the work environment.

That is one reason I was so pleased about the House inclusion of a medical liability reform. The Balanced Budget Reconciliation Act (S 16077) contains a provision designed to act as a limit to the increase of health care delivery system development of the physician service network (PSN) provision contained in this bill. Doctors and hospitals were rightly concerned that because of time-consuming state certification requirements, they would not have the ability to form networks to compete as providers under the new choice plans.

On my own behalf, insurers were equally concerned that we not create a system which put them on an uneven footing, by allowing certain organizations to escape the solvency requirements and antitrust requirements in current law.

The challenge we face is to find the right balance between two competing interests—our intention to provide seniors with real health care choices, especially choices to escape the solvency requirements and antitrust requirements in current law.

One of the major innovations in this reconciliation bill is that it will enable beneficiaries to save catastrophic health insurance that pays for major expenses. Beneficiaries pay all medical bills up to the deductible with the MSA and out-of-pocket funds. Catastrophic insurance pays all expenses above the deductible.

Among the benefits of MSA's for seniors will be that they will have first-dollar coverage for drugs for Medicare beneficiaries. MSA's are personal, individual accounts used to pay for routine and preventive health care and are combined with high-deductible, catastrophic health insurance that pays for major expenses. Beneficiaries pay all medical bills up to the deductible with the MSA and out-of-pocket funds. Catastrophic insurance pays all expenses above the deductible.

Medical Savings Accounts incorporate sound economics while encouraging individual responsibility and choice.

Mr. President, I want to point out that, contrary to many reports, the Balanced Budget Reconciliation Act of 1995 does not cut Medicare spending. It does not reduce benefits. It does not breach our contract on Medicare.

And contrary to the assertions of many, Medicare spending will increase each year under this budget. It will rise from $181 billion this year, to $277 billion on fiscal year 2002, a $98 billion or 53 percent increase. Expressed differently, Medicare benefits will increase from an average of $4,800 per person this year, to $6,700 in fiscal year 2002, hardly a cut.

For Medicaid, S. 1357 allows a 5 percent rate of growth over the next 7 years, with the program rising from $157 billion this year to about $220 billion in 2002. I don’t believe this increase of 40 percent can be termed a "cut", either.

Many of my constituents have visited with me, offering both praise and criticism about the provisions in this bill.

On a positive note, I have received much positive feedback about the provisions in this bill which subject a greater measure of private market competition in Medicare. I have received warm endorsement of the provisions in the bill which allow the States to tailor
their Medicaid programs to their own individual needs. In particular, many in my home state are pleased about the opportunity to work cooperatively together with our Governor to craft a Medicaid program which meets the needs of Utahns, not the needs of those in states across the Nation.

I have been troubled for some time about the inflexibility of the Medicaid program, and the innumerable, burdensome requirements placed on the programs at the Federal level. This has served to give rise to costs, as well as to hamstring innovators such as Utah Governor Mike Leavitt, who have some wonderfully creative ideas on how to deliver services in a cost-efficient manner.

I recall the story Governor Leavitt related to me about the Medicaid waiver he was trying to submit to the Health Care Financing Administration. Utah had determined that it could provide care to its citizens at the same cost as HCF which restricted the dental benefit to children and adult emergencies. HCFA turned him down cold.

As we debate this important legislation, there is a need to be sure that we do not lose sight of how these reforms will affect Native Americans. This is a subject in which I have a great interest.

Mr. President, I am especially pleased that the pending legislation contains provisions in which I sponsored in the Finance Committee, relating to the impact of Medicare and Medicaid reform on Native Americans. I want to discuss in a moment. I am hopeful that in the conference we can improve these arrangements remain in place in the new world of reformed Medicaid.

In addition, my language expands coverage for tribally owned Self-Directed Health Care facilities as well as urban Indian organizations that serve Medicaid eligible Indian patients.

Another issue in which I have a great interest is the Federal effort to prevent health care fraud and abuse. The problem of health care fraud and abuse is certainly troubling aspects in our Nation’s health care delivery system. By most estimates, the costs of health care in the

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United States approach $1 trillion annually. By the turn of the century, the figure will exceed $1.5 trillion annually, consuming up to 16 percent of the Nation's production of domestic products.

Even by the most conservative estimates, billions of dollars are lost to waste, fraud and abuse. Health insurance experts, the FBI and other agencies agree that fraud and abuse account for as much as 5 to 10 percent of total health care expenditures. As much as $27 billion taxpayer dollars are lost to fraud and abuse in the Medicare and Medicaid programs. These losses are clearly unacceptable.

Clearly, the Federal Government must take steps to put a halt to the deliberate and unscrupulous act of defrauding individuals, health care providers, and State and Federal Governments in the provision of health care.

The anti-fraud and abuse provisions contained in this legislation essentially represent the provisions contained in S. 1088, which was developed by my colleague from Maine, Senator Cohen.

I am extremely pleased that the final compromise addressed my concerns about provisions in S. 1088 which would have authorized the use of health care fraud related fines and penalties to finance investigative and enforcement efforts of the HHS IG's Office and efforts at the Justice Department.

I have long opposed this so-called bounty hunter provision, as I strongly feel it would create an incentive for Federal investigators to forgo prosecution or exclusion where warranted in favor of large civil penalties that would provide additional funding for investigators.

Under the new language as contained in the bill, all penalties, fines and damages collected will be deposited into the Treasury. Under the anti-fraud arrangement, the original purpose to strengthen the financial solvency of the Medicare program is further achieved. I strongly believe this approach serves to address my concerns as well as ensuring the integrity of the anti-fraud and abuse provisions.

I do have remaining concerns, which I will work to address in conference.

First, I would note that the bill does not uniformly punish those who would attempt to defraud a health care plan or provider or those who would conspire with others to do so. Nor does it appear to criminalize attempts or conspiracies to embezzle.

I think it is vitally important that those who conspire with others to cheat our health care plans should be punished to the full extent of the law. Otherwise, to defraud or embezzle will be uncovered before the crime is actually completed. Those situations should be addressed by this statute.

Second, while we provide for the forfeiture of property, real or personal of persons convicted of health care fraud, it is unclear whether the bill would also permit the forfeiture of the fraudulently obtained proceeds. While it is certainly important to obtain fraudulently obtained property, it is even more vital to divert criminals of their unlawful obtained proceeds.

I also have several technical concerns with the fraud and abuse provisions.

For example, section 7141 punishes those who commit health care fraud with a maximum 10-year penalty. If serious bodily injury results, the criminal can be punished for any term of years.

Unfortunately, the statute does not appear to address a crime leading to someone's death. Serious bodily injury is not defined to include death, so the possibility of a death occurring as a result of the crime must be taken into account.

Finally, we need to ensure that this bill does not improperly extend Federal criminal jurisdiction and that it conforms to accepted investigative demand procedures. In light of the Lopez decision in United States v. Lopez, last term, we must be careful to draft legislation that contains the proper legislative nexus to the Constitution's commerce clause. We must put an end to the days of federalizing crimes which are local in nature with the aim of reaching the legitimate prosecutorial interests of the States.

We must also guarantee that appropriate, established, investigative demand procedures are followed. The administrative subpoena is a powerful tool that should not be used unless accepted procedures are followed.

In addition, I have continuing concerns about the provisions relating to the anti-kickback statute. I have been concerned about the discount exception to the statute as currently interpreted, and the discount safe harbor regulation with its impact on Medicare anti-kickback legislation. I am not persuaded that the demonstration of commercially reasonable and non-abusive marketing practices are sufficient to establish that a discount is lawful.

One such practice is the combining for discount purposes of various products and services that are sold by a company to a provider. Another example involves the provision of discounts based upon the volume purchased during a fixed time period. The discount is allocated on a flat across-the-board basis for all products. Similarly, hospitals and health plans frequently purchase all products used for treatment of a particular disease from a supplier, at a fixed rate for all products.

In addition, manufacturers want to be certain that they can lawfully bundle products into a single procedure kit which contains all items needed to perform a specific procedure or treatment, and to offer the kit for purchase at a discount. Without the discount exceptions, such arrangements can be construed as a sale of one product tied to another, and, therefore, a kickback under Medicare law, even when practiced lawfully in the treatment of patients.

These arrangements are appropriate and create no potential for abuse so long as there is adequate disclosure of the financial parameters of these arrangements so that the Medicare and State health care programs can ascertain cost data for purposes of revising payment rates and are able to evaluate the impact of these arrangements.

Unfortunately, these arrangements may differ from pure time-of-sale price discounts on a single item or service, they are appropriate in the current health care environment.

Discount arrangements are, in fact, commonplace in the private sector and have resulted in substantial savings to hospitals, managed care companies and, most importantly, consumers.

Unfortunately, current Medicare law is heavily on the ability of health plans to purchase medical devices, pharmaceutical products and services directly from manufacturers, and manufacturers receive a percentage price discount on the total products purchased. The discount is allocated on a flat across-the-board basis for all products. Similarly, hospitals and health plans frequently purchase all products used for treatment of a particular disease from a supplier, at a fixed rate for all products.

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under Medicare to the full extent of the scope of practice permitted under State law. The Committee agreed to accept this amendment subject to working out the financing provisions with the Congressional Budget Office. However, due to the press of business, it has not yet been possible to complete the task of fine tuning a mechanism that would achieve this goal without significantly increasing the cost to the Medicare program.

This is unfortunate because I believe that the time is ripe to discard the antiquated restrictions on chiropractors that permeate current law. Today, chiropractic is recognized by the medical profession, and, indeed, a recent government report concluded that chiropractic treatment is among the most effective for the treatment of certain type of ailments. Many of us in this Chamber did not need a government study to tell us what we already know.

I am committed to work with my colleagues on the Finance Committee to effectuate a change in the limitations on chiropractors. I believe—and I am confident that a majority of my colleagues both on the Finance Committee and in this chamber agree with me—that chiropractors should be allowed to be reimbursed under Medicare as long as the service they provided is an existing covered service, and that they are operating within the scope of their license as defined by State law.

ORTHOTIC AND PROSTHETIC SERVICES

I wanted to take this opportunity to mention another amendment I authored in Finance Committee, which was approved but later dropped because we could not find a suitable offset. That amendment would have allowed a 1 percent update in the reimbursement rate for orthotics and prosthetics providers in particular for artificial limbs and braces.

Orthotics and prosthetics providers design, fit and fabricate custom orthopedic braces and artificial limbs for a wide variety of persons with physical disabilities.

I understand that the O&P fee schedule has been frozen for a number of years, resulting in only a 1 percent update factor per year since 1985. The bill freezes the update.

I am sympathetic to concerns which have been raised about the growth in reimbursement for this industry, and I would point out that this is a highly specialized segment of the health care industry; where utilization controls should not be an issue. In addition, while the Congressional Budget Office cites large growth in O&P since 1980, part of this growth is due to the higher costs of medical care and enteral nutrition [PEN], urological supplies and other non-custom devices which would not have been covered by my amendment.

I hope that the final bill can include the one percent update.

ABSTINENCE EDUCATION

Providing education to young adults about the value of abstinence is extremely important and I applaud the effort that this bill makes in this area. Many of us share the belief that abstinence is the best and healthiest method for young people to avoid the risks associated with early sexual activity—dangers that have both physical and psychological manifestations.

I am concerned, however, that the language that I was education in section 7445 of S. 1357 may be interpreted by some as being so restrictive that some excellent abstinence-based programs, including some programs operating in my state, would not be eligible for funding. This program exists in 50 schools in Utah and has been successful in achieving abstinence by teaching and reinforcing it within the values of caring, respect, responsibility, trust and family. I would hope that the highly valued-based program this effective would not be excluded from funding.

PRESCRIPTION DRUG REBATES

Many of us opposed the Medicaid drug rebate program when it was first enacted in 1990, although I recognize that it has provided a valuable source of revenue for financially strapped State Medicaid programs. The theory behind this program is that it would constrain the costs of pharmaceuticals by guaranteeing State Medicaid programs the best price.

Because of the growing move toward Medicaid managed care, with its inherent cost containment strategies, the importance of the rebate program is now overstated.

I have been concerned that rebates are anticompetitive and constrain the ability of hospitals, HMOs, and other private sector purchasers of prescription drugs to negotiate discounts from pharmaceutical manufacturers. In addition, overly high rebates can act as a disincentive for some pharmaceutical companies to participate in Medicaid, as well as to the pharmaceutical research and development necessary to foster breakthrough drug products.

Under the current Medicaid program, states receive a manufacturer's best price for a drug, plus an additional rebate reflecting any differences between price increases and inflation—as measured by the Consumer Price Index. Under the original Finance bill, the Federal rebate program would have been retained for 3 years, after which the States could choose whether to implement programs on their own. An amendment adopted in committee removed that sunset.

I believe it is important to clarify what was intended by an amendment that I offered at the Senate Finance Committee on the topic of prescription drug rebates.

Currently, several States require rebates from prescription drug manufacturers over and above what is required under the Federal Medicaid program. The bill that we will ultimately send to the President will also be likely to restrict the authority for States to continue to collect rebates. My amendment noted that most of my colleagues on Finance would concur. It is that this authority should be along the lines of the original Finance Committee bill which included a transition period of 3 years allowed to States to integrate drug rebate programs into their overall health care programs.

At the Finance Committee there was discussion as to whether the language adopted would exclude States that choose to opt out of the Medigap Program from collecting supplemental or additional rebates on top of the rebate amount authorized under the program. The Senate Finance Committee voted to provide States with flexibility in collecting unlimited rebates. At the committee level the point was made that the pharmaceutical industry is expected to spend about $15 billion on research and development in 1995 alone. States may choose not to use the drug rebate program but will be prohibited from collecting unlimited rebates from this research and development-intensive industry.

FDA EXPORT

I was pleased to learn today the House adopted as part of its reconciliation bill legislation I authored with Representative FRED UPTON and Senator JUDD GREGG (H.R. 1300/S. 597) a bill which would dramatically expand export opportunities for American manufacturers of pharmaceuticals and medical devices.

That bill, the FDA Export Reform and Enhancement Act of 1995, will both create new markets in the United States, as well as provide incentives in the United States to increase our technological capacity to develop new medical products.

I intend to work concertedly to ensure that this provision becomes law. I commend my colleagues in the House, especially Representative UPTON, for their work in this area.

REIMBURSEMENT FOR EXPERIMENTAL MEDICAL DEVICES

On June 22, 1995, Senators GREGG, FRIST, KENNEDY, KASSEBAUM, GRAMS, WELLSTONE, CHAFEE, HUTCHISON, D'AMATO and I introduced the Medical Devices Access Assurance Act of 1995. A companion measure, H.R. 1744, was introduced in the House by Chairman BILL THOMAS, and I look forward to Congress to step forward in this area.

This legislation addresses two serious threats to our health care system: restricted access for our senior citizens to the latest medical technologies and our country's loss of clinical research activities to overseas facilities. This bill helps harmonize our reimbursement policies for experimental medical devices with those governing the payment for conventional drugs. This is good policy that is fair and advances the public health.
Because of ‘Byrd rule’ considerations we are not able to pursue this matter in the bill today, even though the House Ways and Means Committee reported a 20 percent reduction. While I recognize that these provisions, to a certain extent, mirror Health Care Financing Administration efforts under an inherent reasonableness proceeding. Nevertheless, I am concerned about the impact of such a significant reduction on patients in Utah who receive less than the usual level of services, particularly those patients in rural or remote areas of the State.

In addition, I have met with numerous small home oxygen providers who believe that with their slim profit margins they cannot possibly sustain a 40 percent payment reduction. And for many patients, the small provider may be the only nearby source of home oxygen therapy.

As the legislative process moves forward, I hope that we can reexamine this proposal.

HOSPICE CARE

I would also like to mention my deep interest in making sure that Federal support for hospice care remains as strong as possible. Hospice care provides palliative care for terminally ill individuals with a life expectancy of 6 months or less.

The terminal illness runs its normal course. Specifically, hospice care provides relief of pain and uncomfortable symptoms through a specially qualified interdisciplinary group of medical, psychosocial and spiritual professionals. Besides being certified as terminally ill, an individual must be entitled to part A of Medicare in order to be eligible for hospice care under Medicare. Under the Medicare hospice benefit, a terminally ill individual can receive comprehensive high-quality care at a lower cost.

While I recognize the need to hold back the growth in spending for all components of the Medicare program, I am concerned that the effective and efficient service of hospice care current to Medicare beneficiaries may be compromised by the proposed 2.5 percent budget reduction.

Hospice care is in effect comprehensive managed care for a specialized population, the terminally ill, since the current Medicare hospice benefit is reimbursed on a fixed, all-inclusive per diem basis.

As a recent Lewin-VHI study indicated, ‘efforts to control Medicare expenditures [that] discourage hospice providers from offering their services to Medicare beneficiaries. Medicare expenditures would likely increase.’ We must monitor this situation closely to ensure that the benefits of hospice care are not undermined by this proposal.

In addition, I also think we need to clarify how the hospice benefit will interact with the managed care opportunities provided in both the House and Senate bills. The House language is explicit in stating that Medicare contractors will assume full financial liability for services other than hospice care. The Senate language is silent on this point and I am hopeful this can be addressed in conference.

HOME HEALTH CARE

I am also concerned about the impact of this legislation on the provision of home health care. As my colleagues are aware, home health has long been a personal priority of mine. I have seen time after time how grateful Utah families are to be able to care for their loved ones in the home. This compassionate, caring alternative to institutionalization can make all the difference in the lives of those who are ill.

At the same time, I recognize that the rapid growth of these services in recent years attests to the fact that patients prefer home health care over traditional institutional care.

I have had the opportunity to talk to patients and their families who receive these services. Almost without exception the family setting enhances the patients morale and serves as a positive influence in speeding recovery or sustaining the critical nature of an illness.

Accordingly, as we reform Medicare, we should be careful not to limit access artificially.

The legislation before us today proposes significant changes to the home health care industry. One provision will require that home health care services be paid on a prospective payment basis. I have favored for a long time; I think this provision will serve to address concerns regarding costs as well as to promote cost efficiency and effectiveness among providers without compromising the quality of care.

While I support the enactment of a PPS for home health care, I do have concerns about some of the provisions contained in the Senate and House proposals which could have unintended consequences of erecting barriers to care for several categories of the elderly.

For instance, the greatest deficiency in the respective House and Senate plans, and one which will cause the greatest financial hardship to agencies as well as impact on patients, is the treatment of extended care/outlier cases; that is, patients who require more than 100 days of care.

According to some industry sources who have contacted me, as much as 30 percent of the national caseload falls into this category. The discrepancy between the per episode cap—based on the average regional cost of providing 120 days of care—and the per agency limit based on 165 days of care must be addressed to minimize the financial impact.

If the episode cap is limited to 120 days, then additional payments, where warranted and approved by the fiscal intermediary, should begin on day 121. Or, alternatively, the per episode cap could be based on the per episode average costs of providing 165 days of care.

The financial impact on providers of the discrepancy is obvious. The impact on patients is no less obvious. In the first place, the plan effectively—albeit certain—unintentionally—discriminates against patients with certain medical needs and conditions. While Medicare will pay providers the full cost of furnishing care to some patients whose needs fall within arbitrarily defined limits, it will pay for only part of the care for patients who are either more acutely ill or have chronic conditions.

Additionally, it is reasonable to assume that some agencies with large caseloads of patients needing care beyond 120 days—but less than 165—cannot long operate under this system. The logical result will be limited access to care in some areas as agencies are forced to determine.

With respect to the home health market basket updates, payment rates should be based on actual reasonable costs. The provision which would adjust payments by the home health market basket minus 2 percent is clearly unreasonable. Per visit payment directly affects per episode limits, so the limitation has a compounded effect.

Also punitive, particularly in light of the 45-day window of vulnerability/disruption, is the limitation of the savings share to 5 percent of an agency’s aggregate Medicare patients. I think this is something we may need to examine, especially since the limitation appears to be inconsistent with overall costs of a level that will yield savings greater than 5 percent.

The limitation could ultimately hurt the Medicare program, whose level of savings would increase if real incentives were in place for home health agencies to work to produce saving beyond the 5 percent limit.

Another issue regards the break in care between a particular illness or episodes. Any required break in the delivery of home health services before a new episode can begin would, by definition, be arbitrary. A 60-day break seems to be unnecessarily long, given the nature of the Medicare home health care population. I think that 45 days might be more reasonable.

Another question I have about our proposal is that it leaves open the question of what responsibility, if any, a home health agency would have for a patient who is discharged—for example, at 120 days—and then who needs services for another condition 50 days later. This issue needs to be clarified. If patients cannot receive the care they currently have access to, the quality of life will certainly suffer.
need through home health, it is reasonable to assume they will obtain it in a more costly institutional setting.

Faced with the House bill extending the waiver provision until the implementation of the PPS system on October 1, 1995, I hope this is something we can reexamine.

CHILDE'S HEALTH

Nothing can be more important to our future than the health of our children. Too often that fact is left out of our debate on entitlement programs.

This debate has underscored that there is a profound disagreement over whether Medicaid should remain an entitlement, but I am certain there is no disagreement that children should be a primary focus no matter how we restructure Medicaid.

In particular, children with special health care needs — those with serious chronic conditions or disabilities such as those with cerebral palsy, cystic fibrosis, cancer or heart conditions — are fortunately very well served in nurseries. In fact, they represent only 2 percent of all children. But, it will take special attention to make sure their needs are being met.

For example, managed care can offer these children and their families better access to care and better coordination of services, but as the managed care industry's own National Committee on Quality Assurance has recognized, managed care has little experience with children with special needs.

The bill we have before us today contains an amendment which would have States outline in their plans how they will serve children, and in particular, how they will serve children with special health care needs. While I am certain the Governors will devote appropriate attention to children with special needs, I am also certain that outlining how this will be accomplished in the State plans will give us all the peace of mind that these very vulnerable children will not fall through the cracks.

In addition, the bill contains a provision with Sen. Gramm to clarify that States are required within their Medicaid plans to describe the methodology to be used to determine disproportionate share payments to hospitals. An explicit methodology is important for hospitals such as Primary Children's in Salt Lake City, which receives 7 percent of its Medicaid revenues from disproportionate share payments.

NURSING HOMES

One of the reasons I have introduced S. 1177, the Quality Care for Life Act, is that I firmly believe we need to adopt a national policy for long-term care. The Home Act will not be a Federal-only solution. Indeed, any plan to provide comprehensive long-term care services for Americans citizens must embrace a mix of private and public solutions, including incentives for long-term care insurance development.

There are 17,000 nursing homes in this country, who serve 1.7 million residents. The care of two-thirds of these residents, some 1.13 million, is paid by Medicaid, and the care of 100,000 is paid by Medicare.

The impact of this bill on the provision of long-term care services is immeasurable, since we are reforming the Medicaid system which provides a good deal of the long-term care services in this country, as well as making substantial changes to Medicare reimbursement for skilled nursing facilities [SNF's].

There is no doubt that savings from SNF reimbursement should be included in a reconciliation bill. I think that all involved — providers, patients and policymakers — recognize that fact. However, I have had some concerns about the way the provisions were crafted in the proposal that we considered in Finance Committee.

I have very much appreciated the willingness of Chairman ROTH and his most capable staff, to work with me to address my concerns.

Two weeks ago, I received a letter from 28 hospital organizations, representing a broad spectrum of companies and health professionals providing care to 1 million Medicare beneficiaries. These organizations, which include nursing homes, subacute facilities, ancillary service providers and health care professionals serving nursing home patients, were opposed to the committee proposal which would have established a flat, per-stay reimbursement rate for all ancillary services based on a blend of a facility-specific and a national average rate.

The basis of concern was that the move toward a national average could cause wide shifts in reimbursement, which could jeopardize patient care especially for those with severe illnesses. In addition, the funding mechanism could jeopardize the trend toward using subacute care as a cost effective alternative to hospital care.

I also think that, despite the Health Care Financing Administration's lack of priority in developing a prospective payment system for SNF's, there is consensus that future payment must be made on a prospective basis. The only practical solution to the funding problem for nursing homes under the fee-for-service sector of the Medicare Program is to implement a prospective payment system that contains the necessary cost containment incentives. This will take some time to develop.

Under the most rosy scenario, such a PPS system could not be implemented before October 1, 1997.

To me, the goals in developing a SNF reimbursement proposal should be two-fold. We must make certain that any prospective payment proposal contains appropriate incentives for high quality services. At the same time, it must also provide reimbursement in the most equitable way, especially during the transition period as we move to a PPS system.

The key to designing a new system is to get a handle, not only on the price the Medicare Program is paying for the nursing home service package, but also on the amount of services provided in the coverage package. Control over the latter can only be accomplished by looking at SNF's prospectively on a per episode, per case, or per diem or per day basis — as opposed to the per diem or per day approach that has been traditionally employed in the nursing home industry.

Faced with prospective per episode payments, skilled nursing facilities will be able to economize on the amount of services provided during each Medicare-covered stay by adjusting schedules to cover services provided during each day of the patient's stay in the facility and by making sure that the Medicare-covered stay is no longer than necessary. Of course, other mechanisms outside of the payment system will have to be introduced to control the number of Medicare-covered admissions. But I expect we will be addressing these concerns through controls on coverage decisions, shifts to managed care, and modifications in eligibility rules.

These prospective episodic payments should cover all of the reasonable costs that skilled nursing facilities incur when providing Medicare-covered services, including both operating costs (both routine and non-routine) and property costs. The prospective episodic payments under this system are intended to cover the entire cost of care being provided during the period of Medicare part A coverage. This means that the payments are to cover both part A and part B services that are provided to the patients during their Medicare part A covered stays.

Additionally, the prospective episodic payments need not be the same for all patients in all facilities. For example, the prospective payments should be case-mix sensitive so that patients with varying certain needs are associated with varying levels of payments. Skilled nursing facilities operating in different labor markets also should have their prospective payment schedules adjusted to account for these market differences. Finally, special consideration should be given to the prospective payments for patients in skilled nursing facilities with very low volumes of Medicare activity so as to preserve the access to SNF services that these providers afford. This can be done either by preserving the current low volume prospective per diem Medicare SNF payment system or by adjusting the prospective episodic payment levels for these facilities to recognize their higher costs of operation. No payment adjustments should be authorized other than those just described.

With this kind of approach to prospective Medicare SNF payment, we can expect to finally get a handle on one of the most rapidly expanding sectors of the Medicare System. I am extremely appreciative of the efforts that Senator ROTH and his staff have made to work with me to address this issue.
October 27, 1995

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am extremely sensitive to the concerns
Medicaid as Federally-Qualified Health
ment they would have received under
eliminates the cost-based reimburse-
of the Social Security Act, Medicaid, it
would allocate one percent of Federal
objection a provision I authored with
bill,
plification, can be reexamined in con-
and
services, a key regulatory reform goal
which could
needed administrative simplifications
vision similar to the Ways and Means
within this bill. I have no objection to
sure that the Secretary will rebase the
timely, accurate, and relevant data.

Another provision about which I have
some concern is the provision on reim-
burses for lab services. There are several
within this bill. I have no objection to
reducing the level of spending under
this category, and I am very appreci-
ate of the fact that the bill does not
contain the unwise proposal from 1993
to impose a copayment on lab services.
In committee, I had suggested a pro-
vision similar to the Ways and Means
bill which would only freeze updates for
lab services. The provision would also
include unavoidable administrative simplification
which could provide efficiency and
cost-effectiveness in the delivery of lab
services, a key regulatory reform goal of
this Congress.
We were not able to work out the
scoring on this proposal, but I am
hopeful the issue of lab reimbursement,
and especially administrative sim-
plification, can be reexamined in con-
ference.

FEDERALLY QUALIFIED HEALTH CENTERS

During Finance consideration of this
bill, the committee adopted without
objection a provision I authored with
Senators CHAFEE and GRASSLEY which
would allocate one percent of Federal
Medicaid spending for the preservation of
what I believe is really the Nation's
primary care infrastructure—commu-
nity and rural health centers. Since
the bill rewrites title IX of the Social Security Act, Medicaid, it
eliminates the cost-based reimburse-
ment they would have received under
Medicaid as Federally-Qualified Health Centers (FQHCs).
Let me make perfectly clear that I
am extremely sensitive to the concerns
that our Nation's Governors have
raised about using a Medicaid set-asides
as a funding source for this amend-
ment; I want to work to address these
concerns as the process moves forward.
Under our amendment, one-half of the
amount allocated would be used for
payments to community health cen-
ters, and the other half for rural health
clinics. The Secretary of HHS would
determine the methodology for deter-
rmining payments and who would
make payments directly to the centers.
Payments made to centers by the
Secretary would be in addition to
any other revenues the centers receive
from Medicaid, either directly from
States or from managed care plans.
Mr. President, over 1000 community
health centers and 2500 rural health
clinics play a unique role in the health
system. In inner-city areas, community
health centers are often the only
providers of care to Medicaid pa-
tients and the uninsured. In rural
areas, community health centers and
rural health clinics are often the only
providers of care for the uninsured. As
seen, whether they are on Medicaid or Medi-
care, have private insurance, or are un-
insured.
Community health centers and rural
health clinics serve over 16 percent of
Medicaid patients nationwide. My col-
leagues might be surprised to know that
36 percent of community health
center patients are on Medicaid: 44
percent are uninsured; 8 percent are on
Medicare, and 12 percent have private
insurance.
For rural health clinics, 27.7 percent
of the patients are on Medicaid: 29.4
percent are on Medicare: 14.4 percent
are uninsured; and 28.5 percent have
private insurance.
The current Medicaid Program recog-
nizes the unique role of these centers,
and provides them with cost-based re-
imbursment, in order to assure that
the payments made to them meet the
health care needs of Medicaid pa-
tients they serve.
Unlike providers with large numbers
of privately insured patients, these
centers do not have reserves or avail-
able capital, and do not have the abil-
ity to cost-shift losses from insuffi-
cient payments under public programs.
Under many current Medicaid man-
aged care programs, these centers have
not received sufficient payments from
managed care plans to meet their costs
caring from Medicaid patients.
Some of my colleagues may ask why
these centers are not special consid-
eration. A major reason is that many
will be forced to close their doors or re-
duce services if their reimbursement is
not maintained.
Centers are committed to serve all in
their communities. Without a suffi-
cient flow of funds to meet the needs of
their Medicaid patients, centers will be
forced to substantially reduce their pa-
tient services and to go out of
business. Other providers will not enter
these underserved communities be-
cause the economic base will not sup-
port them, and the community will be
left with no remaining health care in-
frastructure.
Another reason is that Medicaid pa-
tients (particularly those seen by cen-
ters) are not receiving equal payment
than the privately insured patient en-
rolled in a managed care plan because
Medicaid health center patients have
more serious health conditions and
poorer overall indicators of health sta-
tus.
In addition to traditional medical
services, centers provide other services
(such as outreach, transportation, health education, and translation) compensating the Medicaid patients to bet-
ter utilize care and comply with medi-
cal direction. These services are not
generally included in a capitated pay-
ment which a health center receives
from a health plan.
There are many benefits which would
result from this legislation.
Since these centers must be located
by law in underserved areas, access to
cost-effective preventive and primary
care services will be assured.
These centers deliver health care
which is one of the best bargains any-
where. For example, the total annual
cost of community health center
comprehensive primary and preventive care
is on average, less than $300 per
person.
I would also like to reassure my col-
leagues that this provision could result
in substantial savings for State Medic-
ad funding programs. Several studies
have found that Medicaid patients who
regularly use health centers have lower
total annual health care costs than
Medicaid patients who use other pri-
mary care providers, such as HMOs,
hospital outpatient units, or private
physicians. This shows that
health center patients were 22 percent
to 33 percent less expensive overall and
had between 27 percent to 44 percent
lower inpatient costs and days.
Other providers could also benefit
from this provision. These centers
serve disproportionate numbers of
high-risk patients, and adequately
compensating the health centers for
their care can make risk levels more
reasonable for other providers in com-
unities with more than one provider.
As we prepare to vote on this land-
mark legislation, I want to express my
deep personal appreciation to the Fi-
ance Committee health staff, who
have labored long and hard under the
most difficult circumstances to bring
us a solid piece of legislation. In par-
ticular I want to cite the hard work of
Julie James, Roy Ramthun, Alec
Vachon, Susan Nestor, and Donna Nor-
ton. I would be remiss if I did not also
mention the monumental efforts of
Lindy Paull, Rick Grafmeyer, and last,
but not least, Gioia Bonmartini.

In conclusion. Mr. President, unfor-
tunately, there is no easy nor painless
way to effect reductions to the growth
of Medicare and Medicaid. But it has to
be done.
My message is simple. I wish we lived
in a world in which we had unlimited
resources so that all—aged, disabled, poor—could have the services they deserve. But such a world does not exist. We may be fair to our Nation's disabled, to our seniors, and to the low-income. But we must also be fair to our children, and their children. In short, we just have to do the best we can and this bill is a good start.

BALANCED BUDGET RECONCILIATION ACT

Mr. PRESSLER. Mr. President, I am pleased to be voting today for the Balanced Budget Reconciliation Act. I am confident that the United States Senate will be voting to end fiscal irresponsibility. Today, we have the opportunity to leave the next generation not mountains of debt, but the prospect of a stronger economy and a better standard of living.

Many of us have fought this battle to end runaway deficit spending for decades. I have done what I can. I have kept a balanced budget. I have vetoed bills that bloated the federal government, and sent my staff budget by 15 percent. Those of us who believe in common sense budgeting fought tenaciously to reverse years of wasteful and largess that has left the United States a debtor nation. For years, the only things I have had to show for my efforts to balance the budget are awards from grassroots, fiscal watchdog organizations. Today, with passage of this legislation, I have my eyes on the ultimate prize: a balanced federal budget. It is about time.

Of course, the people who deserve most of the credit are the American people. As they have done in so many instances throughout our nation's history, the American people made the difference. Last November they said enough is enough. They sent home liberal caretakers of a run-down, bloated federal government, and sent to Washington a new corps of members that share my common sense approach to government. American families, working hard to provide for their children's future, knew that the federal debt stood as an ominous threat to their efforts and their way of life.

The people of South Dakota long ago made clear they do not tolerate wasteful deficit spending. South Dakotans believe that the federal government should live within its means—just like every family, every farm, and every business large and small. They are absolutely right.

No single act this Congress can take could have a more positive impact on more Americans than a vote to balance the federal budget. The facts are in the clear. A balanced federal budget and a lower debt free up investment dollars that have gone toward financing the debt or making interest payments on the debt.

In practical terms, a balanced budget would mean three key things: First, it would mean lower interest rates by up to two percent, making loans for new businesses, a new home or car, or a college education, such decisions seem as if it would mean at least $1.1 million new jobs; and third, it would mean a higher standard of living. In fact, a balanced budget would result in per-family incomes rising on average by $1,000 a year.

With all the clear benefits, it is no wonder that the American people strongly favor a balanced budget. Americans recognize that fiscal irresponsibility has been a stifling barrier to progress—a barrier that gets larger, more onerous and more oppressive unless we act. Today, we are acting. A balanced budget is not just a restoration of common sense government. It is nothing less than economic liberation for every American family and business.

The balanced budget bill we pass today maintains our commitment to vital programs, and to national security. It also preserves and improves outdated, costly social programs that threaten to spiral our country into bankruptcy. Chief among them is Medicare.

Medicare reform is critical. I support Medicare. It provides essential hospital and health care services to 37 million Americans, including 113,000 South Dakotans. My mother depends on Medicare for her health care.

As all of us know, earlier this year, we received troubling news from the trustees in charge of Medicare. They said that Medicare would be bankrupt in seven years. Without action by the year 2002, there would be no money to pay senior citizens' hospital bills. Seniors would be stuck for the entire bill because Medicare would not be around to help. If we enact the Medicare reforms contained in S. 1357, that will not happen.

This bill would save Medicare by making a number of key reforms. First, the bill would slow the rate at which Medicare is spending our tax dollars. At present, Medicare is growing at an annual rate of 10.4 percent. That is too fast. It is like forcing a person to run a marathon at a sprinter's pace. If allowed to grow at this pace, Medicare will burn out and run out of money in seven years. Like the marathon runner, we need to slow the pace of Medicare growth so it can run longer. That is just what this bill would do. It would slow Medicare growth to a more manageable 6.4 percent—still twice the rate of inflation, but at a pace that would enable Medicare to stay solvent for seven years.

In terms of dollars and cents, total Medicare spending would increase from $178 billion this year to $274 billion by the year 2002—that is a total of $1.6 trillion programs, such as student loans for college education. Much misinformation has been circulated by the liberals, but the reality is student financial aid enjoys wide bipartisan support. This was made evident just yesterday, when the Senate overwhelmingly approved an amendment I cosponsored to provide an additional $3 billion for student financial aid. This amendment would preserve the in-school interest subsidy for both undergraduate and graduate students. It also would prevent any increase in the interest rate on PLUS loans for parents and it eliminated a misguided $5 per cent fee on student loan volume on colleges and universities.

I am very pleased the Senate adopted this amendment. During the Senate Labor Committee's consideration of its version of the bill, I was concerned that the bill contained language. I contacted Chairman KASSEBAUM to express my opposition to any
new fees on higher education institutions as a way to preserve our commitment to Federal student loan programs.

Frankly, we could do even more for our financial aid programs by repealing the wasteful direct lending program. This bill takes a step in that direction by capping the direct lending program and allowing the student loan package would provide a $500 per child tax loan deduction for up to 20 percent of interest—up to $500—paid on a student loan.

The bill would create an adoption credit to encourage and reward those who reach out to open their hearts and homes to a child in need of a home. We have a strong commitment to families by relieving the unfair burden of the marriage tax penalty.

The bill would encourage middle class families to save and invest by creating a new Individual Retirement Account. Current use of tax-deductible IRAs would be expanded through an increase in the income limits, which would encourage Americans to save more and secure their futures. Homeowners who have contributed to families by relieving the unfair burden of the marriage tax penalty.

The bill would provide even more tax relief for the middle-class by creating a student loan deduction for up to 20 percent of interest—up to $500—paid on a student loan.

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Mr. President, the driving principle behind this entire legislation is fairness— fairness to hard-working Americans and particularly to our children. We want to protect this country. Without this legislation, Americans would be subjected to egregious forms of unfairness on many fronts. Unless we balance the budget, young Americans will inherit a nation submerged in debt. Today, already owes $187,000 just on interest on the Federal debt. That is more than $3,300 in taxes every year of her working life—a lifetime tax rate of 84 percent. This debt stands to threaten the very foundations of our economy and our country.

Without this legislation, Medicare will go bankrupt in the year 2002. Americans not yet of retirement age, who are contributing a significant portion of their pay to Medicare, deserve to know that Medicare will be there for them when they retire.

Without this legislation, hard-working Americans would be saddled with a tax system that punishes their ability to save, invest and provide for their families.

This legislation restores fairness to fiscal policy, seniors' health care and tax policy. Most Americans play by a common sense set of values. Americans work hard. They obey the law. They look out for their family and community. They try to provide for their future and their children's future. Under the Constitution, the Federal Government has stood in stark contrast to these values. The Federal Government taxes far too much and spends even more. It does not live within its means. It stifles individual initiative and ingenuity. This liberal tax and spend philosophy stands to threaten the livelihoods and the values that embody them of future generations.

Today, we take a significant step to right this wrong. To protect an indispensable legacy of tax and spend. It is a historic occasion. Today, we set the stage for a new legacy of fiscal responsibility and fairness to American families. The American people made history last November by giving the Republicans control of Congress for the first time in more than a generation. They called for fair, common sense government. Tonight, for the first time in more than a generation, we in the Republican party will give the American people what they asked for: A fair, common sense government that lives within its means.

NAVAL PETROLEUM RESERVES

Mr. DOMENICI. Mr. President, there was a point of order sustained against the provision in the bill providing for the sale of the naval petroleum reserves. This is a technical violation of the Byrd rule.

The budget resolution included a reconciliation instruction based on the gross proceeds from the sale of the naval petroleum reserves. However, in reconciliation purposes, the Senate Budget Committee has scored the gross proceeds to the Armed Services Committee consistent with the budget resolution.

Under reconciliation scoring, there is no violation under the Byrd rule.

For purposes of determining under sections 302 and 311 of the Budget Act and determining whether the budget is balanced we do take into account the forgone receipts from the sale of the naval petroleum reserve. So, under that point of order, there would be a net outlay increase in the out-years.

Even so, no one should be under the impression that the sale of the NPR will lose the Government money. Under the provision in the bill providing for the sale of the naval petroleum reserves [NPR] leads to three budgetary impacts: $1.6 billion increase in gross proceeds to the Government from the sale of the NPR: $2.5 billion in forgone receipts over the 7-year period of the reserve; and at least $1.0 billion in discretionary spending savings associated with the fact that the Government no longer will need to spend money to operate and maintain the reserves.

None of these figures take into account the interest savings the Government will earn or the tax revenues that will be generated by the private operation of this oil venture. Even without these additional savings, the sale still generates savings to the Federal Government over a 7-year time period.

The point of order against this provision is clearly a technical violation. I will work with the Senate Finance Committee and the Armed Services Committee to ensure that NPR's is incorporated into the conference report and there is no Byrd rule violation.

The irony here is that a Democratic point of order will defeat the President's proposal to sell the naval petroleum reserves. If we don't sell it, the President's plan is even more out of balance.

Mr. President, the NPR has outlived the original purpose for which it was established around the turn of the century—a fuel reserve for the Navy.

Since 1976, the Department of Energy has been operating NPR as a commercial oil field. The quality of oil produced from the NPR is not suitable for use by the modern Navy and instead is sold to the private market.

There is no national security rationale for the Federal Government to continue managing NPR oil production, either in terms of military or domestic energy requirements. The private sector can run NPR more efficiently than the Federal Government.

INTERNATIONAL SIMPLIFICATION

Mr. DOLE. Mr. President, I would like to state my support for including several international tax simplification measures in the conference report. There is an urgent need to address certain issues now before businesses make operational decisions that may negatively impact the growth of those industries for years to come, and, as a result, the American economy. I know that Senators HATCH, D'AMATO, CHAFFEE, GRASSLEY, and MACK also have strong concerns in this area, and I hope we can all work together to see that these issues are addressed in the conference report on this bill.

The provisions to which I refer include various international simplification measures, some of which are in the House bill, including a measure that would permit foreign tax credits to be applied to taxes paid by fourth, fifth and sixth-tier controlled foreign corporations (CFCs), as well as the repeal of Section 956A of the Internal Revenue Code, the application of the foreign sales corporation (FSC) rules with respect to software exports, and a reevaluation of the deferral rules for foreign shipping income of CFC's.

One of the provisions on which I believe we should act is section 956A, which was one of the tax increases included in President Clinton's 1993 tax bill. Contrary to the stated reason for enacting this provision, in many cases it created an incentive for U.S. multinationals to invest overseas rather than in the United States. This is because by having its foreign subsidiary invest in active foreign assets, a U.S. multinational reduces its tax liability. This section of the law essentially provides a 35 percent investment tax credit for foreign investment by U.S. companies. Similar problems arise from a provision that today could cause a CFC to be treated as a PFIC because current and future earnings are not recognized for the value of a company's intangible assets. These and other international tax simplification issues should be addressed in the conference agreement to this bill.

Mr. HATCH. Mr. President, I share the concerns expressed by the majority leader regarding the need to repeal Section 956A and the application of the PFIC rules to CFC's in connection with intangible assets. I would also like to express my concern about the problem of the overlap between subpart F and the PFIC provisions in general. I look forward to working together with the leader to correct all of these problems in the conference report on this bill. These provisions have the effect of hindering competitiveness of U.S. multinationals and distorting investment decisions that properly should be governed by economic considerations alone. Thus, they put at risk U.S.-based jobs. The 956A and PFIC rules have an especially harsh effect on research-intensive companies, which tend to accumulate capital before making major investments. As a result, I am particularly concerned that research activities may be moved overseas in order to avoid the impact of these rules. I am concerned that we gradually lose its competitive edge in the technology field if through ill-conceived tax rules we provide incentives for this technology to be developed and owned outside the United States. As a result, these issues are very important to my State of Utah, and I am concerned about Tax Code
provisions that have the effect of causing those industries to move their high-paying jobs out of the United States. For this reason, I would like to ask the leader's support for addressing in conference a problem that has arisen because of a narrow and ill-conceived IRS interpretation of the foreign sales corporation (FSC) provisions as they apply to exports of software, which I fear could also result in the movement of software development jobs overseas.

The FSC rules were enacted to address competitive disadvantages faced by U.S. companies vis-à-vis exports from other countries that have more favorable tax systems, particularly those that effectively exempt export sales from home country tax. The goal of the FSC provisions was to remove an incentive to move manufacturing and production jobs out of the United States. Unfortunately, a narrow IRS interpretation of these rules could preclude exports of software copyrights from being treated under the FSC rules when those exports are accompanied by a right to reproduce the software overseas. I am very concerned because software companies are already examining opportunities to move high-paying software development jobs overseas where highly skilled labor is available at much lower wages. FSC benefits help offset higher U.S. labor costs by providing benefits on the export of products developed in the United States. I believe it is very important to clarify these rules to prevent taxpayers from avoiding taxation on the repatriation of foreign earnings through disguised dividends in the form, for example, of loans to affiliates. In general, ordinary course of business financing transactions appropriately were exempted from this provision. Since section 956 first was introduced, however, the scope and complexity of international business have expanded, and therefore the ordinary course of business exceptions to section 956 have not been updated.

For example, U.S.-based securities firms typically had negligible foreign earnings at the time section 956 was introduced, and therefore the ordinary course of business exceptions to that provision did not reflect standard commercial practices in that industry. In recent years, however, many U.S.-based securities firms have transformed themselves into global institutions by developing substantial international operations (just as many foreign-based institutions now compete in the United States). Section 956 has never been updated to reflect this surge in the international activities of the U.S. securities industry, thus forcing the industry into complex uneconomic transactions.

This is just one example of how U.S. taxation has not kept up with the political, economic and technical changes that have created new opportunities and broken down old barriers as national markets are replaced with global markets. Our tax laws should reflect and support these changes in a similar fashion, or they will force undue complexity of tax compliance.

I join with the Senators from Kansas and Utah in supporting the principal of tax reform in the international area and the inclusion of international simplification and reform in the conference reconciliation.

Mr. DOLE. Mr. President, I agree that we should try to address these measures in conference.
fields have far fewer calves than those away from the facilities.

If this is in fact the case, the adverse effects of oil activity would be magnified in the coastal plain. What will exploration bring? Hundreds of miles of roads and pipelines leading to dozens of oil fields, blocking wildlife migration. Toxic wastes leaking into the soil. Rivers and streams polluted with millions of tons of their gravel to construct roads and runways.

According to Interior Department estimates, oil exploration would likely result in a decrease or change in distribution of 20 to 25 percent in the caribou population, 50 percent in the numbers of snow geese, and 25 to 50 percent in the muskox populations.

And after the oil has dried up, after the companies have gone, what will be left? The footprint of industrial development: abandoned drilling equipment scarring the landscape; toxic contamination: lost wildlife: a horizon permanently altered.

I have heard proponents argue that the coastal plan is a critical step toward decreasing our dependence on foreign oil. Yet, many of these same proponents are now moving a bill through the Congress to start exporting the oil presently extracted from Alaska's North Slope.

Mysteriously, this concern about our dependence on foreign oil also seems to evaporate when it comes to investing in research and development of alternative fuels, such as solar and wind energy.

Protection of our wilderness should not be a Democratic issue, or a Republican issue. In fact, the entire National Wildlife Refuge System, or which the Arctic Refuge is a part, was begun in 1903 by one of the greatest conservationists in history, Teddy Roosevelt, a Republican. The coastal plain was part of the original wildlife refuge established by President Eisenhower in 1960. Regrettably, red ink is being added to Alaska's budget and the power of a few special interests have polarized this debate.

Every American has a stake in our National Wilderness Areas, in the preservation of the environment in which we all live. Every acre offering the possibility of oil ought not be drilled, every mountain offering the possibility of gold ought not be mined, every mile of coast ought not be stripped bare just because its value can be quantified, just because revenue can be raised.

Due to the fragile and complex interconnection of ecosystems, our future is inextricably linked to nature's vitality. If the scale is tipped too far by overdevelopment and we lose our balance, no amount of money will enable us to restore what we have lost.

We must remember that we are but visitors in this land, existing by the good grace of Mother Nature—a last, sustainable society for all future generations to come.

Mr. COHEN. Mr. President, I have enormous respect for my Republican colleagues for producing this historic budget. For the first time in a generation the Senate is presented with a plan that actually balances the budget.

Earlier this year, one part of this balanced budget amendment charged that the amendment was a gimmick designed to allow Members to say they support a balanced budget without having to explain exactly how to achieve this.

I am proud that these critics have been proven wrong. Despite the loss of the balanced budget amendment, this Republican Congress has persevered in producing a specific plan to balance the budget in 2002—the same year called for in the balanced budget amendment.

The spending cuts called for in this plan are significant, and many of them are with the American people. It is with the tax cuts. I do not think we should be cutting taxes at the same time we are trying to balance the budget.

Trying to do both at once is like driving with one foot on the gas and the other on the brake.

I think the tough cuts proposed in this plan would be more easily justified without the tax cuts.

Any way you look at it, because of these tax cuts, the Federal Government will have to borrow $245 billion more over the next 7 years than it otherwise would. This is particularly troubling in light of the fact that, if no changes are made in the Federal budget, children born today will face a lifetime tax burden of 82 percent. Such a tax burden is clearly unsustainable and intolerable.

Paying for tax cuts with borrowed money is really more of a tax deferral than a tax cut. At some point, future taxpayers will be forced to pay back the $245 billion and their tax burden will be higher than it otherwise might be.

If the effect of borrowing money for tax cuts today is to increase the tax burden on future generations, the entire purpose of balancing the budget is undermined. We will still be asking our children to foot the bill. Balancing the budget is itself a tax cut in that it would relieve families of the hidden taxes associated with servicing the national debt. Interest on this debt costs the average household over $800 a year.

Balancing the budget more quickly and forgoing a deficit-financed tax cut would ease the burden of these hidden taxes. Balancing the budget more quickly would also lower interest costs for mortgages and student loans—saving families thousands of dollars.

Congress must focus on increasing the national savings rate. The surest way to achieve this goal is by reducing the deficit and fundamentally reforming the tax code. The tax cuts proposed in the pending bill would frustrate both of these goals. The Tax Code would be complicated further and the deficit would be increased.

Let me be clear. If not for the budget deficit, I too would support a broad-based tax cut. I am no fan of higher taxes. I opposed President Clinton's deficit plan because it relied too heavily on tax increases and not enough on deficit cutting. It is one thing to oppose further tax increases. It is another, however, to support large tax cuts in the face of looming deficits.

While the size of the tax cuts prevent me from voting for this budget, I applaud the willingness of the majority leader, Senator DOMENICI and Senator ROTH to work with me and other Senators to make some important changes to the bill affecting the education and medical programs. In addition, important Federal nursing home standards were maintained. While these improvements were substantial, they could not offset my overarching concerns with cutting taxes by $245 billion.

I am confident that the Senate will have an opportunity to consider another balanced budget plan this year. The budget in its current form will almost certainly be the President.

Subsequent to this veto, I look forward to working with my colleagues to craft a new plan that maintains the goal of balancing the budget without cutting taxes by $245 billion.

Mr. SPECTER. Mr. President, I am voting in favor of final passage of the budget reconciliation bill because I believe the prospective benefits of balancing the budget outweigh the concerns expressed in my floor statement of October 24, 1995. As indicated by that statement and my votes on individual amendments, I believe the bill would have been fairer with more funding for Medicare, education, and Medicaid without the tax cuts. OK, the tax cuts should have gone to deficit reduction.

But, on balance, the bill should be passed.

Due to the insistence of our group of centrist Senators, this bill has been materially improved by floor amendments which did add some significant supplemental funding for Medicaid, Medicare, and education.

It is my expectation that further improvements are likely in the House-Senate conference with additional funding for Medicare and recipients of the earned income tax credit, because the House of Representatives has higher figures in those accounts.

After the House-Senate conference and the President's review, it is likely that the ultimate legislation will better address the fairness issue and provide better assurances that tax cuts will not undermine a balanced budget.

Passage of this bill by the Senate today will move the process forward and promote the primary objective of balancing the federal budget by the targeted date for the first time in our history.

Mr. BIDEN. Mr. President, a nation's budget reveals its fundamental values, its priorities, the problems that most concern its people. A budget can tell us what we value—what we will be shared—what people, what activities will bear the tax burdens, and
which people, which activities will be encouraged and rewarded.

We are debating here today perhaps the most important budget plan in my public career. This is the first time we have committed ourselves to a 7-year budget plan, and the first time we have committed ourselves to a path which ends in a balanced budget. If—and this is a big if—if we stick to it, this budget will control our actions through the end of this century and beyond.

What statement does this document make about our country? What does this reconciliation bill say about our country, what does it say about our values?

Mr. President, as we debate this bill we face a number of fundamental problems in our country. High on the list of worries of the middle-class men and women I talk to in my State of Delaware is the need to restore faith in the American dream—a belief that their own hard work will earn them a decent living today, that their mothers and fathers could secure and sustain a retirement, and that there will be a better world for their sons and daughters.

And just as high on that list of American concerns is a need to restore Americans' sense of fairness—a sense that we have a system that gives the average guy a fair shake, that does not turn its back on those who are less fortunate, a system in which the most fortunate have an obligation to contribute to our shared needs.

This is a value increasingly at risk today.

How does this budget respond to those concerns, Mr. President? How does it reflect those middle-class values?

I am sorry to say that this budget will give middle-class Americans more reason to worry about the future. It weakens the foundation of middle-class growth by making it harder for our children to get the education they need to become part of a high-wage, high-productivity, world-class work force.

The growth that is the inevitable result of this reconciliation bill will contribute to a further hollowing out of our middle-class—an expanding gap between the few whose families can afford a more expensive ticket to a better future and those who cannot.

A weakened middle class increases social instability, and leads to the very real concerns about the future that we now see in the polls, and in our streets.

It threatens Americans' ability to control their own fate—no matter how hard they work, a weaker, slower-growing economy will mean smaller wages and salaries, a bleaker future.

As unwise, as reckless as this bill is in its threat to our current and future standard of living, Mr. President, it is unconscionable. It is an abandonment of our commitment to our parents' generation.

It raises the cost of getting old in America. Mr. President. This reconciliation bill is a dark cloud over what should be the golden years of the generation that made us into a world power. that passed on to us the richest. Mr. President—thank God the history of the world. How do we repay their hard work and sacrifice on our behalf?

This bill raises the cost of Medicare and Medicaid, and removes nursing-home standards that demand basic human decency. It cuts more than $270 billion from Medicare over the next 7 years. Already today, seniors pay an average of 20 percent of their income for health care. This plan will increase the premiums of a senior couple an additional $2,800 over the next 7 years.

This reconciliation bill continues to dump the burden on a middle class that is already gifting clobbered. For more than a decade and a half, the median income in this country has been stuck in neutral—along with housing, the costs of education and health care are squeezing everything else out of middle-class income.

This bill increases health care costs of the retired parents of hard-working middle-class families. What are they going to do when grandma and grandpa come home and tell them that they will have to pay more out of their own fixed incomes to visit their own doctor? Will they turn their parents away? We all know the answer to that question.

Mr. President, there is no middle ground. The middle-class families are going to remember their parents' sacrifices for them and for this country, and they are going to reach into their pockets and cover the new costs imposed by this bill.

At the same time, they are going to have to pick up the tab for more expensive college loans. It is the old squeeze play, Mr. President, and guess who is in the middle?

The saddest thing about this reconciliation bill may well be the missed opportunity it represents. I voted for the balanced budget constitutional amendment. I supported those plans. I supported the balanced budget constitutional amendment.

I offered an alternative plan that offered real promise of a balanced budget by the year 2002, the same target at which this reconciliation bill is aimed.

I wished I could have voted for a plan that would reach that goal. There are many possible plans, many possible paths to that goal. Some of those paths to a balanced budget would leave us a stronger, more competitive, and fairer country. This one will not.

The question is not whether we should balance the budget. The question is not whether there must be sacrifice and change in the way we do business here. And for me, there is no room in any action plan that would make tax cuts, though more carefully drawn and targeted than those here before us today.

The question is how should we share the burden of the necessary sacrifice among the American people, and how should we allocate the necessary spending cuts to assure stronger, faster economic growth in the future.
future of our economy, and it does nothing to help us build the well-paid, high-productivity work force that will allow us to take control of our destiny. We can do better, Mr. President, and because the American people deserve better. I will vote against this bill.

Mr. CHAFEE. Mr. President, reconciliation bill is the culmination of the congressional budget process. It provides for a balanced budget within 7 years, a truly remarkable feat.

The next step will undoubtedly be direct negotiations between congressmen and the President to reach a final budget accord. However, that cannot occur until this legislation has been passed in final form, and sent to the President. And the quicker, the better, in my view.

While I do not agree with every aspect of this reconciliation bill, the objective of achieving a balanced budget far outweighs any misgivings I have about various of its provisions. We do not always get everything we want, in the legislative process. Achieving the greater good must also be a consideration: and, here, the greater good is to obtain a balanced budget.

For 33 straight years this Government has spent more than it has taken in. The cumulative consequence of our annual budgetary sins is an incredible $3 trillion national debt—literally, a mortgage on the economic future of our children and grandchildren. This is immoral, and must stop.

Every week, the Treasury Department must issue debt securities to keep the Government afloat. This past Monday, for example, Treasury borrowed $27 billion to cover maturing securities, and to raise needed cash. The Department must hold monthly, quarterly, and annual auctions just to maintain solvency. If we make no change now, as we are currently on, we will run $200 billion deficits each year well into the next century. Fully 15 percent of our annual Federal budget—$235 billion—must now go to paying the interest on this massive debt. To cut out a penny of that going to reduce the principal. Within 10 years annual interest costs will jump to $400 billion.

This must stop.

Those of us in Congress who have struggled over the years to reverse this ruinous course, are rightfully frustrated. In 1985, we passed the Emergency Deficit Control Act, also known as Gramm-Rudman-Hollings. That law was supposed to deliver a balanced budget by 1991. It did not happen. In 1990, we passed the Budget Enforcement Act, establishing the discretionary spending caps and the pay-as-you-go enforcement spending and tax cuts. The results are barely measurable. Despite our best efforts, deficit control continues to elude us.

Regrettably, we cannot balance the budget in the next 15 years, or next 30 years. However, with the bill before us, we will balance the budget by the year 2002. And, from there, we can hopefully go on to reconcile the staggering national debt that will remain.

Is this bill perfect? No, it is not. I am not aware of any Senator who is satisfied with every aspect of this 1,900-page bill. In my view, at a time when we are struggling to reduce the deficit and asking people to sacrifice, the tax cuts are ill-timed. Earlier this year, during the debate on the Budget Resolution, a number of moderate Republicans—myself included—voted to eliminate the tax cuts. That effort was complicated by the fact that the President’s own budget called for tax cuts totaling more than $105 billion. During the Finance Committee deliberations last week, I was the lone Republican voting to eliminate or scale-back the tax cuts. Unfortunately, my view did not prevail.

I have also been clear in my objections to block granting the Medicaid Program over the past in the Finance Committee to ensure that, at a minimum, pregnant women and children with incomes below the poverty level, as well as the disabled, retain some minimum guarantee of services.

In that same amendment I proposed my amendment to clarify the definition of “disability” passed the Senate yesterday by a vote of 60-38. Similarly, I am gratified the Senate this morning rejected, by a vote of 21-78, an amendment to eliminate provisions for low-income pregnant women and children, as well as the disabled. These votes place the Senate squarely on record in support of requiring states to guarantee services to these vulnerable populations.

As a result of negotiations with the majority leader, moderate Republicans have been able to obtain a number of other improvements to the Medicaid package over the past in the Finance Committee, including extensions of Federal grants to states for block grants, increased Federal grants for the elderly, and provisions for covering the state of American Indians. These include retaining Federal standards for nursing homes, a set-aside for low-income Medicare beneficiaries, and requiring that the same solvency standards a state applies to private plans must also be applied to Medicare plans. We were also able to obtain a provision to permit the integration of services for elderly and disabled individuals who are both Medicare and Medicaid-eligible. Finally, we also won inclusion of an additional $10 billion in funding to the States under the revised Medicaid Program, and $2 billion more in Medicare payments to teaching hospitals.

I am also pleased that we were able to reach an agreement with the majority leader to eliminate the proposed reductions in Federal student loan programs that most directly effect students over the past in the Finance Committee, a number of moderate Republicans—myself included—voted to eliminate these adjustments for Federal retirees. These cuts are a cancer, and this bill is the chemotherapy. It’s painful medicine, but it is necessary.

During hearings earlier this year in the Finance Committee, a number of distinguished economists testified on fiscal policy and the state of our economy. Nearly everyone of these witnesses, including Federal Reserve Board Chairman Alan Greenspan, said that balancing the budget is the single most important step we in Congress can take to help the economy. The benefits that flow from balancing the budget include increased employment and wages, greater investment and productivity, and lower long term interest rates.

Once we get on a glide path to a balanced budget, which can only come from hard negotiations with the President, our economy will begin to see some of these improvements. As interest rates drop, borrowing to buy a house, or to finance a college education will become more affordable. With less government borrowing, there will be more capital available for small businesses to expand, and to hire more people. Real wages, now stagnant, will begin to grow again, and our standard of living will gradually begin to improve.

In summary, Mr. President, we must take bold steps now. We cannot continue to pile over greater debt burdens on our children and grandchildren. Thank goodness we finally have a legislative proposal that will reverse this ruinous course.

Mr. FEINGOLD. Mr. President, the 2000 page reconciliation measure that the Senate passed is deeply flawed.

It is a massive work, and difficult to comment on in any kind of a well order way because making an assessment of the reconciliation bill really amounts...
to assessing the individual components of the measure, as well as the proposal as a whole.

On both counts, this bill is troubling. 

More importantly, I have voted for legislation that contained significant, specific changes to Medicare twice during the 103rd Congress.

The reconciliation legislation we passed as part of the President's deficit reduction package included nearly $60 billion in Medicare cuts.

I also voted for, and was proud to co-sponsor, the bipartisan Kerrey-Brown deficit reduction package which also included significant, specific Medicare cuts.

And, Mr. President, I am willing to vote for Medicare cuts again. But not the $270 billion in cuts that are proposed in this measure.

Mr. President, last May I laid out a number of specific areas in which I thought savings could be realized. I also pleased a number of those ideas included in the Medicare provisions of the reconciliation bills that have been made by the Senate Finance Committee.

These included changes in the reimbursement of capital-related costs of inpatient services, repairing the flawed reimbursement formula that results in overpayments for some outpatient services; and, establishing a new prospective payment approach for home health care services.

I was pleased as well to see that the Finance Committee proposal includes some improvement in the reimbursement formula for Medicare HMOs.

The current formula rewards inefficient health care markets and punishes efficient health care markets and those areas, like many rural areas, that have inadequate health care markets and punishes low-income seniors and disabled.

But those who have sought to avoid criticism of this and other Medicare changes have used the pretense of the impending insolvency of the Medicare trust fund. And in doing so they have done no favors to the cause of deficit reduction. 

Far from it. 

By misrepresenting the facts to the American people, they have undermined and jeopardized the already politically difficult, but nevertheless necessary task, of reforming Medicare.

Mr. President, the problem is created by deliberately misleading people about the real need for Medicare reforms are compounded by a number of flawed, even harsh provisions. 

These include the across-the-board increases in part B premiums and deductibles.

Unlike the means-tested premium increase on upper income beneficiaries, which I support, the across the board increases in premiums and deductibles hits lower income seniors and disabled.

Mr. President, the median income of elderly households is less than half that of non-elderly households. And incomes for the oldest old are by far the lowest of any age group.

Households headed by someone aged 75 or older had annual median incomes of less than $13,622 in 1992—$4,000 lower than the next lowest income group. 

And over one-fourth of the elderly households have incomes of less than $10,000 per year.

Mr. President, while the elderly are disproportionately poor, they also spend far more on health care as a group than anyone else, and this should not surprise us.

What may be surprising to some, however, is just how much our seniors do pay already even with Medicare. In 1995, the average older beneficiary will spend about $2,750 out-of-pocket for premiums, deductibles, copayments, and for services not covered by Medicare.

I proposed that very reform in 1992, as part of my 82+ point plan to reduce the deficit and balance the budget, and am glad to see it included in the two proposals.

Mr. President, I endorse this change. It should be made in order to help reduce the deficit. 

But those who have sought to avoid criticism of this and other Medicare changes have used the pretense of the impending insolvency of the Medicare fund. and in doing so they have done no favors to the cause of deficit reduction. 

Medicare changes were part of the 82+ point plan to reduce the deficit I offered during my campaign for the U.S. Senate in 1992.

I have sponsored legislation that includes Medicare changes.

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I might add, Mr. President, that these costs do not include the potentially crushing costs of long-term care which can total nearly $40,000 in some areas for nursing home care.

The across-the-board increases in premiums and deductibles will only add to these already high out-of-pocket costs.

Mr. President, let me add that under the current protections in our Medicaid program for lower income Medicare beneficiaries, some of the impact on these costs of the elderly would be softened, but the reconciliation measure eliminates the guarantee of help for those beneficiaries.
Mr. President, rural seniors are among the most at risk under this legislation. Because rural areas depend on Medicare to support an already inadequate health care service capacity, the massive Medicare cuts hit rural seniors and providers especially hard.

Making matters worse is the so-called Budget Expenditure Limit Tool, or "BELT" provision included in the bill which provides for automatic cuts in the traditional Medicare fee-for-service program if budget targets are not met.

Despite the improvements made to the Medicare HMO reimbursement formula, rural beneficiaries will continue to rely much more heavily on the traditional Medicare fee-for-service program than their urban counterparts, placing them at special risk because of the BELT provision.

Mr. President, as bad as the Medicare cuts are, the Medicaid cuts may be even worse.

Again, reforms to the current Medicaid program are clearly needed, not only to improve services for those lower income families needing health care, but also to reduce the pressure on our budget deficit.

But the $182 billion in cuts proposed in this bill are unacceptable, as is the loss of the current Federal protections that ensure safe nursing home care, guarantee help for the poorest Medicare and Medicaid beneficiaries, and provide the critical safety net of health care services to poor women, children, and the disabled of all ages.

Though spousal impoverishment protections were retained in the provisions reported by the Finance Committee, I am extremely concerned about the prospects for spousal impoverishment when this measure goes to conference.

Comments made by the Speaker indicate that spousal impoverishment protections are very much at risk. I am equally concerned about reports of a little known change in the law that permits States to bill the adult children of those elderly needing long-term care services.

This smacks of a return to the days when we established a population which is not able to provide for themselves. The answer, Mr. President, is not to turn Medicaid into a block grant program, imposing a unilateral cut, and showing responsibility for those left without services onto the States.

The answer is fundamental long-term care reform. Along with Senator PAUL SIMON, I introduced a comprehensive long-term care reform measure, S. 85, that would be an important first step in helping States deal with this growing problem. It is based on the bipartisan reforms we made in Wisconsin during the 1980's, where we established consumer-oriented and consumer-directed home and community-based services that allow those needing long-term care to remain in their own homes and communities.

Those reforms helped bring Wisconsin's Medicaid budget under control, and saved taxpayers hundreds of millions of dollars. Between 1980 and 1993, while Medicare fee-for-service use increased by 47 percent nationally, in Wisconsin Medicaid nursing home use actually dropped 15 percent.

This is the kind of national long-term care reform that is needed to tame the Medicaid budget, offered a version of that proposal as an amendment to this bill, but that amendment was defeated.

Mr. President, other provisions of the reconciliation bill are significantly flawed.

According to the Treasury Department, the bill's cuts to the Earned Income Tax Credit amount to nothing more or less than a tax increase on 17 million low-income working Americans.

In my own State of Wisconsin, some 206,000 families will experience a tax increase of $330 on average in 2002, according to Treasury figures.

The assault on the Student Loan Program is also troubling.

The new limitation on direct lending programs adds real injury to this in- sult, making it even more difficult for families to send their children to college.

Mr. President, as disturbing as the provisions contained in the measure are those which are not such as the lack of effective change to the Federal Milk Marketing Order system.

Mr. President, the provisions in this bill with respect to dairy policy could not be any worse for the Upper Midwest. The provisions reported by the Agriculture Committee dramatically reduce the support price for milk, cutting the dairy price support program to a point more than 22 percent below manufacturing prices on a proportionate basis. The dairy program which accounted for less than two percent of commodity program spending in 1994, took 9% of the cuts made by the Agriculture Committee in this bill. Those dairy producers deserve an answer from Mr. President, if the inequities and market distortions of the Federal Milk Marketing Order system that have discriminated against the Upper Midwest had been addressed by the Committee.

Unfortunately, the Agriculture Committee abdicated their responsibility in the Senate and left the system intact, leaving in place a bill that pulled the rug out from under manufacturing prices for the Upper Midwest, and leaving in place the excessive subsidies for fluid milk in other regions of the country.

Unfortunately, Mr. President, this bill did not stop there. Instead, during floor action, the Senate granted its approval to the Northeast Interstate Dairy Compact which will allow six northeastern states to set artificially high prices for milk paid to their pro- ducers. Mr. President, to my knowledge, this is the first time that Congress has granted approval to a price-fixing Interstate Compact. The Compact erects walls around the Compact states, preventing lower cost milk pro- duced outside the Compact region from entering those six states. It is protectionism in its worst form. This compact also provides a subsidy to Com- pact dairy producers and reduces the price that pay this higher price for milk, in order to allow them to ship their products outside the compact and remain competitive. Those compact products, produced and exported with the subsidy, will then compete with products pro- duced by processors and producers in other states that have not been granted this special privilege.

The Compact, Mr. President, is inherently market distorting, regionally discriminatory, and overly regulatory. I think this body will regret providing its approval to this arrangement.

Unfortunately, the Senate included another provision during floor debate that further worsens the inequities of the dairy system. The bill approved a Class IV pricing scheme for inclusion in Federal Milk Marketing Orders which taxes all producers na- tionwide to support the overproduction of a couple of West Coast states. The Upper Midwest dairy producers and processors overwhelmingly oppose this provision because it adds just another layer of regulation to the already dis- criminatory milk marketing order sys- tem. It will reduce prices for all pro- ducers nationwide in order to pay for the surpluses produced on the west coast. Wisconsin producers, while being denied an opportunity to share in the benefits of the highest class of milk, Class I milk, will now be required to suffer the loss of the lowest priced class of milk, even though they are not responsible for its production.

Mr. President, this bill represents the worst possible outcome for the Upper Midwest dairy industry, and in particular, for Wisconsin dairy farmers. In short, Mr. President, the Senate ap- proved some very bad policy which ap- proves some very bad policy which took the view of many members of this chamber and which is completely out of step with
the dairy marketing conditions of the 1990's. Another area in which this bill remains far too silent relates to the lack of mandatory buyback imposed on our U.S. tax code. I am particularly disappointed at the weak effort made to address the rapidly growing spending done through the tax code.  

Furthermore, with tax cuts and defense spending, these tax loopholes are sacrosanct in this budget. At $400 billion and growing, these tax expenditures are among the most important areas of Federal spending, and they are hardly touched in the reconciliation bill before the body.  

Mr. President, many of the tax expenditures are certainly worthy, but others are hard to justify. Just like the inappropriate subsidies many through direct appropriations, many tax expenditures not only put pressure on the budget deficit. They also distort the market place, lowering overall economic efficiency of the Nation.  

But, despite the clear need for careful scrutiny in this area, made all the more timely by our common goal of reducing the deficit, tax expenditures are largely given a free pass.  

Mr. President, it is obvious to all that the massive cuts to Medicare and Medicaid—nearly a half trillion dollars over the next 7 years—are far more than are necessary to address our budget problem. Perhaps it is time for us to make it more difficult to enact a budget plan that will balance the Federal books.  

Nor can the health care system that provides care for the most vulnerable in our Nation be safely and prudently sustained with this kind of revenue loss. The question occurs—why are these harsh cuts being proposed to the health care programs for our most vulnerable? Why do these excusable and uncontroversial provisions contain the inescapable conclusion is to fund a fiscally irresponsible quarter of a trillion dollar tax cut.  

Mr. President, this tax cut not only jeopardizes the fundamental missions of Medicare and Medicaid to provide health care for retirees, poor women, children, and the disabled of all ages, it also jeopardizes efforts to balance the Federal books.  

Mr. President, if there were no quarter of a trillion dollar tax cut, we could develop a bipartisan budget plan, including reductions in Medicare and Medicaid, that would balance the Federal books by 2002 or even sooner.  

Mr. President, if there were no quarter of a trillion dollar tax cut, Medicare and Medicaid beneficiaries, and other through direct receivable to calls for sacrifice, especially if they are told. Honestly and straightforwardly, that those sacrifices are intended not just to bolster the Trust Fund, but to help get our Federal budget out of the red.  

More importantly, Mr. President, if there were no quarter of a trillion dollar tax cut, we could fashion a budget plan that would be politically sustainable for the time it takes to reach balance and eliminate the Federal budget deficit. I have no doubt that the deep flaws in the reconciliation measure before us jeopardize the very goal the supporters of that measure profess—a balanced Federal budget.  

Mr. President, I find similar fault, though to a much lesser degree, with the President's original budget as well as his later offering, both of which retain a fiscally reckless tax cut, though one which, admittedly, is much more modest than is being proposed by the Republican leadership.  

We cannot afford either the Democratic tax cut or the Republican tax cut, and we could go a long way toward reaching a politically sustainable budget agreement that would balance the Federal books by 2002, and even sooner. If both parties scrapped their tax cut proposals and instead focused on eliminating the deficit.  

Mr. President, the image portrayed by the spin doctors, it is the Senate that has produced the most significant reform in this Congress. Bipartisan efforts in the area of gift bans, lobbying reform, and the beginnings of campaign finance reform all have their roots here, in the United States Senate. I earnestly hope this body will eventually put together the kind of sustainably balanced budget reduction plan that will balance the Federal budget before 2002, and do so without harming the most vulnerable in society. The key is to eliminate the absolutely irresponsible quarter of a trillion dollar tax cut.  

If we can agree to do that, restrain the growth of tax loopholes, and put the defense budget back on the budget track, we could make it more long-term toward establishing a responsible glidepath to a balanced Federal budget, and elimination of the Federal budget deficit.  

Mr. GLENN. Mr. President, I rise in opposition to this bill. Along with many others and offices, I oppose the large Medicare cuts contained in the reconciliation bill and am concerned about their impact on all Americans.  

MEDICARE AND TAX CUTS  

This bill calls for a $270 billion cut to the Medicare program yet gives away $245 billion in tax breaks—which dis-proportionately benefit wealthy Americans. I find it alarming that in order to achieve a $245 billion reduction in taxes, we will slash services for seniors who choose to keep their current Medicare coverage.  

This enormous Medicare cut will not balance the budget because it goes for a $245 billion tax break. To keep its commitment to the elderly so that we can turn around and give $245 billion of it away in tax cuts.  

Now we have heard a lot of talk about how this side of the aisle is just engaging in demagoguery and class war. The truth is that the tax cuts contained in the reconciliation bill before us will benefit the wealthiest 13 percent get 53 percent of the tax cuts. The wealthiest 13 percent get a $270 billion in Medicare savings by cutting spending in the areas of inpatient and outpatient services, home health, hospice and extended care. Physician and ambulatory facility services and diagnostic tests and durable medical equipment. For the people in my home state of Ohio, this means there will be $8.9 billion fewer dollars for health care. For beneficiaries, this cut will mean increased premiums, deductibles, and co-payments for Medicare Part B services—which include many of the services I just mentioned.  

And how are we paying for it? We are going to cut taxes. We squeeze $270 billion from the elderly so that we can turn around and give $245 billion of it away in tax cuts.  

The real horror story of this reconciliation bill lies in the numbers. And the numbers the other side has produced just do not add up. The numbers do not add up because not only does this proposal cut medical care for America's seniors, but it raises taxes on the working poor by gutting the Earned Income Tax Credit (EITC). So you need to factor in the Republican EITC tax increase when making any distributional comparisons.  

When you do that, you will find that people with less than $39,000 will actually be worse off, come tax time, under this plan. But very wealthy taxpayers would be big winners. The wealthiest 13 percent of taxpayers—those who make over $75,000—would receive 53 percent of the Senate tax cut. So the wealthiest 13 percent get 53 percent of the benefits. Those making more than $70,000 would gain an average of $3,000 per taxpayer in the year 2000. By contrast, those with incomes between $20,000 and $75,000 would receive an average tax cut of only $329.  

MEDICAID  

The budget reconciliation's treatment of Medicaid is truly alarming. Republicans would dismantle the Medicaid program and turn it over to the states as a fixed dollar amount block grant—eliminating the safety
The federal government and the State of Ohio currently share in the funding of the Medicaid program and provide more than 1.85 million poor, elderly and disabled Ohioans with physical, hospital and nursing home care. Under the Republican proposal, Ohio would lose nearly $8 billion in federal Medicaid dollars over the next seven years. To offset these cuts, Ohio would be forced to slash or eliminate health services for low-income families and seniors, divert resources from other important programs, or raise taxes.

Many people do not realize that nearly 70 percent of Medicaid spending goes to long-term care for the aged, blind, and disabled. These recipients are mostly middle-class Americans who are not aware that Medicare and most private insurance policies do not cover long-term care. Many become fugitives from care. The elderly and disabled quickly depleted their income and assets after entering a nursing home where costs average $3000 per month. Republican proposals would have abolished laws that protect spouses from having to sell their homes and assets to pay for nursing home bills, but due to widespread opposition both the House and the Senate wisely voted to retain spousal impoverishment protection.

However, the House version of the Republican Medicaid reform bill repeals federal standards for nursing home and institutional care. This plan repeals such essential standards as quality assurance systems, staffing requirements, restrictions on physical and chemical restraints, and nutrition guidelines. I was pleased to support a successful Senate amendment which provided for a transition in the implementation of nursing home regulations and I will urge conferees to maintain federal standards.

I support efforts to control the growth in federal health care spending, but I do not believe that Republicans should balance the budget, and give tax breaks, at the expense of our nation’s most vulnerable citizens. Reform of Medicare and Medicaid should concentrate on strengthening and improving these important programs, not on squeezing out the maximum amount of budget savings. Today, when millions of Americans face limited access to medical care and live with the fear that an illness or loss of a job will leave them without health care coverage and expose their families to financial ruin, I feel it is essential to expand, rather than limit, access to medical care.

There has been a great deal of debate about priorities in the Senate. I am not convinced the plan before the Senate is an expression of America’s priorities. In fact, it is Robin Hood in reverse. This plan to take from the poor and give to the rich might make the Sheriff of Nottingham proud, but it will not balance the budget.

I oppose the provision to allow oil and gas leasing of the coastal plain of the Arctic National Wildlife Refuge (ANWR).

The coastal plain of the ANWR is one of our remaining ecological treasures, containing 18 major rivers, and providing habitat for 36 species of land mammals and more than 30 fish species. This pristine wilderness cannot be replaced. The loss of oil and gas leasing would forever alter this region. While proponents of leasing the ANWR argue that America’s oil dependency requires this resource, they also advocate lifting the ban on exports of Alaska North Slope oil which is contained in this legislation.

Americans are committed to protecting national parks and public lands. This commitment extends to protecting the ANWR even if the revenues from leasing the area would be dedicated to deficit reduction. The U.S. Geological Survey recently reduced its estimate of the potential oil yield from the area; therefore, the revenue assumptions in this bill may be grossly overstated. However, Mr. President, the environmental value of this natural area is far greater than any short-term gain from oil and gas development. I am also opposed to provisions in the bill that will override existing environmental laws and cripple public health and environmental protections.

At the same time, this measure contains provisions that continue to provide millions of annual federal subsidies to timber, mining, and ranching industries. These subsidies not only lack economic justification but often cause environmental damage. Several of these provisions have been previously eliminated or have delayed consideration of other bills. Yet, in an effort to escape the notice of the American people and circumvent the legislative process these dangerous measures have been inserted into this massive reconciliation bill.

Although this bill contains provisions regarding the Mining Law of 1872, it fails to “reform” the patented process and continues to allow the taxpayer to receive millions in revenues from publicly owned lands. In contrast to federal coal, oil, and gas leases for which the government receives substantial royalty payments, hardrock minerals are virtually given away under a law that has not been significantly revised since 1872. This situation is unconscionable.

This measure also contains provisions from a federal grazing bill under consideration in the House. These provisions codify grazing regulations that were in place prior to Secretary Babbitt’s proposed grazing revisions. Again, the American taxpayer and our nation’s environment are the losers.

For all these reasons Mr. President, I have concluded that I cannot support the passage of this legislation and I urge my colleagues to oppose the bill.

Mr. DOLE. Mr. President, this debate has been lengthy and I will not delay a final vote much longer. But I do want to take a minute or two to comment on what is a very historic day for the U.S. Senate.

We have cast over 12,000 votes during my years in the Capitol. Many of those didn’t have a great deal of impact on Americans and are hard to recall. But some votes you remember forever—they are the votes that touch the life of every American, and that change the course of history.

I remember the vote on President Reagan’s historic tax cut bill—and the vote against President Clinton’s historic tax increase bill.

I remember the vote which made Martin Luther King’s birthday a Federal holiday—and I was pleased to lead the debate in favor of that bill.

And I vividly recall the vote authorizing President Bush to send troops to the Persian Gulf.

And no doubt about it, the vote we will cast in just a few minutes is one we will remember forever.

It is a vote for putting America on a path to a balanced budget. It is a vote for low interest rates, so more Americans can own a house, buy a car, and send their children to college.

It is a vote that will give new life to the 10th amendment because we are
transferring power out of Washington, and returning it to the people, where it belongs.

It is a vote for cutting taxes, and allowing American families to keep more of their hard earned money, and to make their own decisions on how best they can spend it.

It is a vote for securing strengthening Medicare for the future. It is a vote for preserving the Medicare Program, on which so many of our seniors depend.

It is a vote for real, meaningful, and fundamental change.

And above all, Mr. President, it is a vote for America's future. For our children and grandchildren—and their children and grandchildren.

It is a vote for the teenager who was in my office a few years back with a group of high school students from across the country. And this young man said to me, “Senator, everyone has someone in Washington who represents them. Someone speaks for all the farmers, for business—but no one speaks for us. No one speaks for America’s future.”

I do not know where that young man is today, but if he happens to be listening, I want to tell him that at long last, someone is speaking for you. Some one is speaking for America’s future.

This Republican Congress had the courage to look beyond the next election, and ask what is best for the next generation. And this young man was speaking for the next generation. The President has been content to sit on the sidelines and ask what is best for the next generation.

President Clinton wants to cut taxes for the middle class, but his actions speak much louder than his words.

He says he wants to balance the budget, and at various times, he says he can do it in either 5 years, 10 years, 8 years, or 7 years—but each budget he has proposed doesn’t balance the budget in 100 years.

He says he wants to cut taxes for the middle class, but he inflicted the largest tax increase in history on the American people.

He says he wants to save Medicare from its impending bankruptcy, but he has refused again and again to join in a bipartisan effort to do so.

Instead of providing leadership, the President has been content to sit on the sidelines and use increasingly harsh rhetoric to scare the American people.

And that rhetoric reached new lows yesterday, with the sad remarks of the President’s press secretary, which I will not duplicate.

And there is no doubt that these past few days of debate on the Senate floor have created quite a few sound bites for the nightly news.

Some of my friends on the other side of the aisle would have you believe that each and every Republican Senator has it out for Americans in need.

I just wish that each time the media reported one of these phony accusations, they would follow it up by reporting the truth.

And that is why the Republican plan reins in government spending by slowing its rate of growth. The truth is, more than 70 percent of our tax cuts go to working families making less than $75,000 per year. The truth is, the Republican budget allows Medicare to grow by an average of 7 percent per year.

Medicare beneficiaries will receive more money next year than they do this year. And they will keep on receiving more money after year after year.

It truly shows you just how ingrained the status quo is here in Washington, how accustomed the liberals have become to spending American’s money, when they attack us for wanting to slow the rate of growth.

I remember a few years back, when we were having a serious national debate on the proposal by former Senators Rudman and Tsongas—one a Republican and one a Democrat—to freeze the Federal budget. Just think what the rhetoric would be like if we had proposed a freeze. But we have not. Instead, we’ve proposed limiting Government’s growth to $350 billion over the next 7 years.

So I say to my friends in the media: You have a duty to report the truth to the American people. Report that Medicare will grow, not get cut. Report that Republicans are giving working families a tax cut, and not a giveaway to the rich.

Let me close by saluting Senator Domenici for the outstanding job he has done throughout this debate. I know how much time and energy he has invested over the years in the quest for a balanced budget. And I like to think that I know how much this vote means to him.

Congratulations, as well, to Senator Roth, for his leadership in achieving the historic tax cuts contained in this budget, as well as the Medicare provisions, which involved a tremendous amount of work.

Mr. President, it’s no secret this vote is not the end of the budget process. We have repeatedly said that if President Clinton has constructive ideas to offer, we are ready to listen. But, without the President’s help, we’re determined to deliver the change the American people voted for, determined to move America forward, and determined to continue speaking for America’s future.

The PRESIDING OFFICER. Is there any further amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDENT pro tempore. The question is, Shall it pass? The yeas and nays were ordered. There is a sufficient second.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. The bill was ordered to be engrossed and read the third time, and the Senate then voted on passage of the bill, with the above occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Midnight.

Mr. DOLE. The PRESIDENT pro tempore.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDENT pro tempore. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—52

NAYs—47
Mr. EXON. Mr. President, I want to end up tonight by taking a moment to recognize the tremendous effort and perseverance that has been exhibited by the members of the Budget Committee. They have been working on this issue for many weeks, and I want to express my appreciation to them.

I also want to recognize the hard work of the staff of the Budget Committee. They have been working tirelessly to help us get to this point.

This is a historic vote. We have to go forward with it. We need to pass the conference report. This is a major step in the process of getting a balanced budget. We need to do this for the country and for future generations.

Thank you, Mr. President.
we instructed you to save so many dol-
ars and cut so many taxes. But the Fi-
nance Committee, led by BILL ROTH, did a magnificent job. That was obvi-
ously where we let him down, thanks to
SPENCER ABRAHAM, a member of our
committee, who worked hard. I asked
him to do a special job for me, in a spe-
cial way, and he did it very well. I
thank him so much for that.

I want to begin by thanking my col-
leagues. I wish to thank the staff and
all members of the Budget Committee
for their hard work. I would also like
to thank all of the committee chair-
men who worked so diligently to meet
the March 1 deadline of budget resolution
and add flesh to its bones.

Also, I would thank the able ranking
member, Senator Exon, he is a fine
friend and an able adversary. The Sen-
ate will be a poorer institution when he
departs next year.

And finally, I would like to take a
moment to acknowledge the constant
and determined leadership of the ma-
jority leader, Senator Dole. We all
knew it was going to be a tough deal.
And his commitment to keeping his
promise to the American people—to
them the first balanced Federal
budget in 26 years—is the reason we are
here tonight. As always, he has kept
his word and has provided this Nation
the honest, effective, and steadfast
leadership that has defined his tenure
in this body.

I speak about Senator DOLE's leader-
ship because that's what the vote we
are about to cast is all about. Leader-
ship. Honest leadership that protects
America today, and tomorrow.

Leaders, it's been said, are the cus-
dodians of a nation. Of its ideals, its
values, its hopes and aspirations. Those
things which bind a nation, and make
it more than a mere aggregation of in-
dividuals.

But governing for today is much easi-
er than leading for the future. It does
not take a great deal of talent or cour-
age to solve the immediate need. It's
not as hard to pave a pathway for the
future.

Yet, we who serve in public office
have a responsibility to protect the fu-
ture. We must work on behalf of those
who will follow us, our children and
grandchildren. We are the trustees of
their future, of their legacy of their op-
portunities.

Leadership requires courage. It re-
quires boldness and foresight to safe-
guard a nation's ambitions and confront
its challenges.

President John Kennedy put it this
way when he said: "To those to whom
much is given, much is required." And
he reminded us that, as public serv-
ants, we would be judged, at least in
part, by our courage.

I couldn't agree more. Eight months ago Republican colle-
agues and I began a courageous effort to
throttle runaway Federal spending and
give the American people the first bal-
ced Federal budget in more than a
quarter century.

We knew it would be difficult. We
knew it would require determination
and endurance. But we had promised
the American people we would balance
the budget and put an end to the per-
sistent deficit spending that has been
bleeding our Nation dry.

A deficit growing by $482 million a
day: $333 thousand a minute; and $55
hundred every second. Let me repeat
that last figure again—our deficit is
currently growing at $5,900 a second.

Deficit spending is draining the eco-
nomic lifeblood of our country.

It's heaping mountains of debt upon
our children and which will drag them
down. We are irresponsibly shackling
our children and which will drag them
down. We are irresponsibly shackling

...
that throughout this debate we have had to drag this White House kicking and screaming toward a balanced budget.

The chronology is clear. This White House opposed the balanced budget constitutional amendment. Its first budget waved the white flag of surrender at the deficit, and, as I said, it only offered a fig-leaf balanced budget following the real thing.

I believe there is still hope. I am ready to meet with budget leaders at the White House anytime so they might join with us in fashioning a budget that gets to balance in 7 years. I'm ready to do it now. Tonight. This weekend. Yet the White House has its veto strategy and, apparently, feels we must go through this little mating dance before we get down to business.

So we can not be swayed by veto threats. We must continue to move forward.

Senators, this is a historic vote. I've waited years for this vote. It is one more step toward the balanced budget the American people have been screaming for. It is a vote for responsibility. It is a vote for accountability. And it's a vote to stop this Government from borrowing $5,500 a second to buy everything it wants and begin considering what it can afford.

Admiral Halsey told us: "There aren't great men. There are just great challenges that ordinary men like and me are forced by circumstances to meet."

Tonight this Senate faces a great challenge. Let us—ordinary men and women—have the courage to meet that challenge and, in doing so, preserve America's promise of opportunity.

I want to make clear that the bill that we passed be printed. We do not have it printed yet.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is available for printing. It will appear in the RECORD of Monday, October 30, 1995.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Nebraska for the remarkable job that he did in representing our side during these very difficult days. He has worked with all of the Members of this caucus, as he always does, with professionalism and leadership.

I personally appreciate the contribution that he has made, along with his excellent staff. They have done all the work on this bill from our side in representing us and they have done an outstanding job. I applaud them as well.

Mr. President, the tragedy underlying the passage of this reconciliation bill is that it fails completely to reflect political consensus. We all agree on the need to balance the budget, but there has been no effort by the Republican majority to address Democrats' concerns and the very real concerns of the American people.

We have stated time and again that we want to work with the majority to produce a bipartisan solution to the deficit problem. The President of the United States has held out his hand in an offer of cooperation. Instead of cooperation, we have been cut out, shut out. And our concerns have been ignored.

Along with us, the American people have been shut out of this process, and their values have been trampled upon. As people are realizing how they and their families will be affected in a real way, they are increasingly rejecting the Republican budget plan.

The plain fact is that Democrats have a clear and successful track record as deficit cutters. In 1993, we achieved $600 billion in deficit reduction without a single Republican vote. The result is that the deficit, as a percentage of the economy, is this year at the lowest level since 1979.

The deficit has fallen for 3 years in a row for the first time since Harry Truman was President. In fact, the 1993 economic plan is working better than even the Administration or the Congressional Budget Office had projected. That is because the economy has performed better than projected since 1993 due to the success of the President's economic plan.

While we seek to balance the budget, we also understand that there is a right way and a wrong way to do it. The budget plan before us is the wrong way. Unlike the Republicans in 1993, this year we offered to cooperate in good faith so long as our basic concerns were on table.

We said $270 billion in Medicare cuts to pay for $245 billion in tax breaks for the wealthy was unacceptable. And we asked that the priorities in this budget be changed first. We wanted children, the elderly, those with disabilities, working families, rural America, and the environment. This debate is about people: seniors who need Medicare, young people who need an education, families who need a fair income—and greater stability, and rural people who want to preserve their way of life.

That is why we are here. It is what unites us. It is why we have fought so hard and so long against the harmful provisions of this bill.

None of our concerns was addressed. The majority did not budge one inch on any of the extreme proposals they made.

As a result, this budget is "DBA"—dead before arrival—and is certain to get the veto it so richly deserves.

The American people have been shut out of this bill in name only. Certainly there was no reconciliation with Democrats. There were no hearings, no consultation with Democrats, and virtually no time for debate.

Senators, if the Senate Republicans held a private markup in the Finance Committee, locking out committee Democrats for the first time in history. The congressional majority has exercised rigid party discipline, forcing every one of its members to march in lockstep even if they disagree with the fundamental direction of their leadership.

The Senate received its first look at this package only one week ago. It was not printed and available to all Senators and the public until this Tuesday. The result is a 2,000-page abomination we are only now beginning to understand.

This far-reaching, extreme package is being rushed through Congress before public opposition can bring it down. The authors of this budget have not built a consensus with anyone, except themselves. They claim a mandate for their radical course—as if wishing would make it so.

This budget does not reflect the hopes and needs of most Americans. Nor have we reconciled our problems with the deficit.

Under this budget. In the year 2002, there will still be a deficit of over $100 billion. Yet we will have to use Social Security money to pay it off. Maybe that is why 80 percent of the American people, in a recent poll, said they believe this bill will not balance the budget. They know it, and we know it.

The only reconciliation that has taken place has occurred in the Speaker's office—in backroom deals between the right and the far right—and between the Republican leadership and a line of special interests that just keeps getting longer. And longer.

Mr. President, our country deserves better than this. This is not what the American people voted for last year.

The American people did not vote last year to cut $475 billion in health benefits to give tax handouts to those who do not need them. They did not vote last year to cut education to millions of students so that some of America's wealthiest corporations could pay no taxes at all. The American people did not vote last year to raise taxes on American families making less than $30,000 so the richest Americans could pay $8,000 less. Nor did they vote not to have a farm bill for the first time in 80 years.

They did not vote for this budget plan then, and they do not support it now.

Mr. President, this bill is not a product of the reconciliation process. It is an abuse of the reconciliation process.

What is in this monstrous package? It contains the largest health care cuts in American history. Two hundred seventy billion dollars in Medicare cuts alone. The mask is off those who have argued that their intention is to "save" Medicare. Their real purpose is to dismantle Medicare.

Three days ago the Republican leaders of both Houses of Congress made clear their real intentions. One stated that creating Medicare was a mistake in the first place, and the other said that Medicare as we know it will "wither on the vine." Their recent
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statements help explain why they insist on cutting $270 billion from Medicare, when only $89 billion is needed to restore its solvency for the next eleven years. By doing so, Congress is abolishing the program, they are cutting Medicare three times more than necessary to pay for their "crown jewel"—offering to the special interests: $245 billion in tax breaks.

Mr. President, this attack on Medicare reveals how far out of touch with the American people the proponents of this bill have become. Medicare is one of the greatest success stories of our time. The American people know that even if some of their politicians have forgotten.

In 1965, before the creation of Medicare, 46 percent of seniors had health care coverage. Today, 99 percent are covered. Does the majority want to bring us back to the "good old days" when only half of our senior citizens had health insurance? It would be heartless to go back to the age when our older citizens suffered needlessly from disease and even premature death because they had no access to health care.

The consequences of these Medicare cuts will be severe. Hospitals will be forced to close. Couples will be forced to pay an average of $2,800 more for health care by 2002. Clearly, Medicare is being used as a piggy bank to fund tax cuts for the wealthiest Americans, with no regard to the damage to the health care of senior citizens in America.

This bill dismantles Medicare. At a time when we have unacceptably high numbers of Americans with no health care coverage, it would deprive an additional 38 million Americans guarantee health care coverage under Medicare.

A recent study by the Consumers Union and the National Health Law Program estimates that 12 million Americans—half of them children—would lose their health care coverage under this proposal. Surely the majority doesn't think the American people voted last year to increase the number of uninsured.

Older Americans and their families also have reason to fear the destruction of Medicaid. One-half of the nursing home patients in the U.S., including almost all of the senior citizens, rely on Medicaid. What will happen to the quality of their care under this bill? What justifies putting the spouses and adult children of nursing home residents at risk of bankruptcy?

That is not what the American people voted for last year either. The majority is telling these people and their families, "You're on your own."

Republicans say, "Don't worry about those details. Think about the tax relief in this bill." But there is no tax relief in this bill for average Americans. There are only new tax burdens for them.

Despite the Republican promises, the typical family in this country earning less than $30,000 will see their taxes increase under this bill. And half of all families in the U.S. have incomes below $30,000.

This bill represents the biggest transfer of income from the lower and middle income levels to the wealthy that we have ever seen. In one fell swoop, it destroys 30 years of investment in our people.

Most of the pain in the budget—affecting seniors, children, working families, rural America, and the environment—is driven by the insatiable greed on the part of the congressional majorities for tax breaks that benefit the wealthiest Americans and large corporations. The richest one percent of Americans—that earning over $350,000—will get an average tax break of $5,678.

Many large corporations will pay no taxes at all under this bill.

Not only do these generous handouts to the wealthy require huge cuts in education and health care and so many other areas they are local irresponsi-

ble. The tax breaks will add $293 billion to the debt over the next seven years—$293 billion in added debt that our children will have to pay off! The costs of those tax breaks will explode after the 7 years covered in this budg-

et. To those who profess that this effort is intended to save our children from the crushing burden of our debts, I would ask them to explain this hyp-o-

ocrisy.

For all the talk we have heard about how this plan is intended to benefit children and future generations, the actual provisions of the bill reveal a different story.

The bill launches an assault on education in this country. By cutting billions for student loans, this bill closes the door on a college education for many Americans.

Other program's priorities are sav-aged as well. By 2002, up to 6.5 million children could lose health coverage. Food stamps will be cut. Foster care payments will be capped, threatening to throw us back to dependence on the orphanages the Speaker proposes. Countless children threatened with abuse may never benefit from inves-tigations of their situations. This bill plays a shell game with the $3 billion in child care funds that were included in the Senate welfare reform bill. It cuts Title XX, the states' primary source of child care money, by $3.3 bil-

lion. It is "Home Alone II" for children whose families are trying to work their way off welfare.

Another giant item stuffed into this package is the 1995 farm bill, which rewards the rich and ravages the rest. It punishes families who need our help most to pay for tax breaks for those who need handouts the least.

It is the wrong plan, for the wrong people, on the wrong way to help the wrong people.

Mr. LOTT. Mr. President, much of what the minority leader just had to say has been said over and over again. It, I think, has been answered suffi-
ciently. We will listen to it here and listen to that speech after all that we have been through for the last three days.
Mr. PRESSLER. Mr. President, I rise today to discuss the critically important issue of United States aviation relations with the Government of Japan.

Last month, the United States commenced talks with the Japanese aimed at liberalizing the transpacific cargo market. This is a welcome development and I hope an agreement liberalizing cargo service opportunities can be reached by no later than March of next year—the mutually agreed upon time frame. The Japanese carriers of cargo services on both sides of the Pacific would be the big winners if such an agreement is struck. Talks on more contentious passenger carrier issues have not been scheduled.

As should now be clear from the numerous floor statements I have made in this body in recent months, I have a keen interest in United States-Japan aviation relations. As Chairman of the Committee on Commerce, Science, and Transportation, I will continue to make it a priority. At the outset of my remarks today, let me emphasize several related points. Although these remarks refer primarily to passenger carrier issues, they directly relate to cargo relations with the Japanese.

First, from a long-term perspective and due to its key strategic location in the Asia-Pacific aviation market, aviation relations with the Japanese are a very important national trade issue. They are a very important national trade issue and a very important national trade relationship. At the same time service opportunities in Japan are expanding, air service markets in Asian countries best served through Japanese gateway airports are growing at an astounding rate.

Simply put, meaningful participation in the rapidly expanding Asia-Pacific market is critical to the long-term profitability of our airline industry. For instance, the International Air Transport Association estimates that between 1993 and 2010 scheduled international passenger service in Vietnam will grow at an average annual rate of 17.3 percent. International air service opportunities in China are expected to grow at an annual rate of 12.8 percent over the same period. Overall, it is expected the Asia-Pacific market will account for approximately 50 percent of world air traffic by 2010.

Second, geographic factors coupled with the limited range of commercial aircraft make it essential that carriers seeking to effectively serve these rapidly expanding Asia-Pacific markets can provide that service from Japan either directly or indirectly through a Japanese code-sharing partner. As distinguished from the bottleneck at London's Heathrow Airport, overflight to markets beyond Japan is not an option since the distances to these markets from the United States are too great. Moreover, as shown by recent unsuccessful experiences, serving the Pacific through other gateway countries and other gateway countries does not appear to be a viable alternative.

Third, aviation relations with Japan are a very important national trade issue and it is imperative they be treated as such. Indeed, discussion of air service opportunities to and beyond Japan is one of the United States' most important trade issues being discussed with any of our trading partners. The stakes in the Japan market are enormous. For example, the United States currently enjoys an approximately $5 billion net trade surplus with Japan for passenger air travel in the Asia-Pacific market.

I cannot emphasize strongly enough the importance of our current and future aviation negotiations with the Japanese. Handled properly, air service negotiations with the Japanese could enhance the ability of our passenger and cargo carriers to participate in the rapidly expanding Asia-Pacific market. Handled poorly, the adverse trade consequences could be colossal.

Fourth, what the Japanese are seeking in these negotiations is not to level the playing field as they suggest. Let there be no mistake, the Japanese are seeking no less than to tilt the competitive playing field in such a way as to enable their less efficient carriers to compete more effectively against our carriers. Our passenger carriers serving the Asia-Pacific market have operating costs approximately half those of their Japanese counterparts.

The Government of Japan claims the United States-Japan bilateral aviation agreement is fundamentally unfair and soley responsible for the greater market share our passenger carriers enjoy on service between the United States and Japan. The facts do not support such a position. Just 10 years ago, under the very same bilateral agreement the Government of Japan now criticizes, Japanese carriers had a large market share on transpacific routes than United States competitors. What is the truth? As a June 1994 report by Japan's Council for Civil Aviation noted, the fact is our carriers became more competitive by lowering operating costs while Japanese carriers continue to be high cost carriers.

Similarly, the Government of Japan claims our carriers have abused their beyond rights and unfairly dominate beyond markets. Again, a claim without merit. Currently, Japanese passenger carriers have a 34 percent share of the Japan-Asia market while United States passenger carriers have just 13 percent of that market. Moreover, our cargo carriers have only approximately 14 percent of the Japan-Asia market. The facts speak for themselves.

Having made these points—points I believe are critical to the United States-Japan aviation relations debate—let me turn to the question of what our goal should be in current and future negotiations with the Japanese. Uncharacteristically, our carriers seem to speak with one voice in saying we need to liberalize passenger and cargo carrier opportunities with the Japanese. There is disagreement, however, with regard to what strategy our negotiators should pursue to accomplish this goal.

In recent weeks it has become readily apparent the debate regarding negotiating strategy will be shaped by two fundamentally different views. To better understand these views, one must remember that our carriers which currently serve Japan can be separated into two distinct groups based on the types of service they are authorized to provide.

The first group of carriers are the so-called MOU carriers. These carriers—American Airlines, Delta Air Lines, Continental Airlines, and United Parcel Service—are permitted by a Memorandum of Understanding signed in 1985 to provide service from specific cities in the United States to specific Japanese cities. These MOU carriers are considered as a base of operation to directly serve emerging Asian markets beyond Japan. They can, however, participate in those markets through code-sharing alliances with Japanese carriers. In fact, Delta's recently announced alliance with All Nippon Airways will permit it to do precisely that.

The second group of carriers, whose rights are derived from the United States-Japan bilateral agreement signed in 1952, are permitted to fly to Japan, take on and unload passengers and/or cargo, and to fly on to cities throughout Asia. Unlike the MOU carriers, the so-called 1952 carriers—Northwest Airlines, United Airlines, and Federal Express Corporation—have beyond rights. Northwest was a party to the 1952 agreement. In 1983, United Airlines purchased its beyond rights from Pan Am in a $750 million transaction and Federal Express Corporation purchased beyond rights of Tiger International, Inc. in a 1989 transaction valued at more than $1 billion.

In a recent speech, Bob Crandall, the Chairman of American Airlines, set out a possible negotiating strategy for United States-Japan aviation relations. I anticipate other MOU carriers will embrace the strategy Mr. Crandall advocated and I therefore refer to it as the "MOU carrier approach."

Recognizing the Japanese are unlikely to grant beyond rights to MOU carriers, Mr. Crandall urged our negotiators to focus on increasing transpacific opportunities between the United States and Japan. In addition to...
list of business organizations that are subject to the payment limitations. Under current law, general partnerships and joint ventures are not listed under the definition of legal "persons" and are thus exempt from the payment limitations. This exemption encourages partnerships and joint ventures to structuring their businesses under the aegis of a general partnership: the more "entities" included in the partnership, the more payments the operation can receive.

SECTION 4

This section would repeal the most flagrantly-abused provision in the payment limit laws: the "Three-Entity Rule." This rule was passed by Congress in 1987 purportedly to limit the number of sources from which a farmer could receive payments. In reality, though, it has mostly been an invitation for farmers to structure their operations in such a way as to maximize payments. This section would allow farmers to receive payments from any number of sources. But because of the strict $35,000 limit we establish in a direct attribution system, there will be few remaining incentives for farmers to form multiple corporations and "shell" entities that exist only on paper.

SECTION 5

For any payment limitation reforms to work, the loopholes in the rules defining who is "actively engaged in farming" need to be tightened. Otherwise, significant dollars will continue to flow to off-farm investors and big operations will continue to flout the payment limits.

This section contains several sensible changes in the eligibility rules. Among others, it would:

- Require any individual or majority shareholder's contribution to the overall significant contribution of "active personal management" and "active personal labor." Current rules require only one or the other.
- Require minority shareholders to contribute at least "active management" or "active labor" on the farm. Current rules allow too many passive stockholders to receive payments just by making a contribution of capital, land or equipment, i.e., money. If a minority shareholder does not meet this threshold, then his or her payments will be reduced in proportion to that shareholder's stake in the venture.
- Require "active personal management:" to demand a regular and consistent presence on the farm during the growing season, to guarantee that payees are closely involved in the day-to-day operations of the farming venture. The current definition is exceedingly vague, requiring only that the contribution be "critical to the farm's profitability."
- Toughen the requirements on landowners. Under current law, landowners are essentially exempt from the labor and management contribution requirements, as long as they are engaged in a true share-lease arrangement with a tenant. This provision would require that the tenant actually be "actively engaged" for the landowner to qualify for payments.
- Lastly, this section would expressly prohibit individuals or shareholders from using their subsidy payments to account for their required capital contribution. Under current rules, subsidy payments can offset efficiency payments toward their capital contribution, which undermines the legal requirement that a recipient be at risk.

This section would increase the penalties for engaging in a "scheme or device": creating bogus corporations, etc.—and defrauding the payment system.

Under current law, any individual or entity found by the USDA to be engaged in a scheme or device is prohibited from receiving payments for the rest of that crop year as well as the next crop year. This provision would ban payments for the succeeding five crop years. In addition, any individual or entity participating in commodity programs that is convicted of defrauding the government would be banned from receiving payments for the next 10 years. (There is currently no additional punishment for persons convicted of fraud.)

These steps are designed to create a real deterrent against attempts to milk the system and deceive the government. The existing penalties are clearly not having any impact.

SECTION 7

This section would establish the effective date of these changes as October 1, 1996.

ADDITIONAL COSPONSORS

S. 545

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mrs. INOUYE] was added as a cosponsor of S. 545, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 943

At the request of Mr. GRAHAM, the names of the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 943, a bill to require the Secretary of the Treasury to mint $1 coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1138

At the request of Mr. LEAHY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1138, a bill to control and prevent commercial counterfeiting, and for other purposes.

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the use of the drug methadone by the residents of New York.

S. 1226

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1226, a bill respecting the relationship between "Fourth Amendment" compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

S. 1300

At the request of Mr. BENNETT, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1300, a bill to ensure personal privacy with respect to medical records and health-care-related information, and for other purposes.

AMENDMENT NO. 292

At the request of Mr. BYRD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Nevada [Mr. REID], the Senator from Arkansas [Mr. PRYOR], the Senator from Arkansas [Mr. BUMPERS], the Senator from New Mexico [Mr. BINGCAMPAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Wisconsin [Mrs. MURRAY], the Senator from Montana [Mr. Baucus], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. JOHNSEN], the Senator from Maryland [Ms. SARBANES], the Senator from Maryland [Ms. MIKULSKI], the Senator from Connecticut [Mr. DODD], the Senator from Wisconsin [Mr. KOHL], the Senator from Kentucky [Mr. FORD], the Senator from North Dakota [Mr. CONRAD], the Senator from Georgia [Mr. NUNN], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1300. Amendment No. 292 proposed to S. 1307, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

AMENDMENT NO. 2974

At the request of Mr. BYRD, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Illinois [Mr. SIMON], the Senator from North Dakota [Mr. DORGAN], the Senator from Virginia [Mr. ROBB], and the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Amendment No. 2974 proposed to S. 1307, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

SENATE RESOLUTION 188—NATIONAL DRUG AWARENESS DAY

Mr GRASSLEY submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 188

Whereas illegal drug use among the youth of America is on the increase:
Whereas illegal drug use is a major health problem, ruining thousands of lives and costing billions of dollars:
Whereas illegal drug use contributes to crime on the streets and in the homes of this nation:
Whereas national attention has turned from illegal drug use to other issues, and support for sustained programs has decreased:
Whereas public awareness and sustained programs are essential to combat an on-going social problem:
Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free and to encourage personal responsibility;

Whereas the annual Red Ribbon Celebration in October involves the National Campaign Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and eliminating illegal drug use can contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drug use: Now, therefore, be it

Resolved, That the Senate designate October 27, 1993, as 'National Drug Awareness Day'.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

SPECTER AMENDMENT NO. 2986

Mr. SPECTER proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, as follows:

On page 538, line 16, strike all that follows through page 541, line 9.

SPECTER AMENDMENT NO. 2986

Mr. SPECTER proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. 1397. FINDINGS AND PURPOSE

(a) FINDINGS—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's productive resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that taxes the income by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fills on a postcard and takes 10 minutes to fill out.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate and limited deductions, credits, and tax expenditures, and the home mortgage interest and charitable contributions.

GRASSLEY AMENDMENT NO. 2987

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

Before ‘;’ at the end of sec. 2111 (a)(1)(D), insert the following ‘;’

The payment of burial and/or funeral expenses of the individual shall be subject to 42 U.S.C. §1382(a)(2)(B) and 1382(b)(d).

BAUCUS (AND OTHERS) AMENDMENT NO. 2988

Mr. BAUCUS (for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. BIDEN, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1357, supra, as follows:

On page 272, strike line 21 and all that follows through page 273.

On page 161, strike line 3 and all that follows through page 178, line 7.

ABRAMAH (AND OTHERS) AMENDMENT NO. 2989

(Ordered to lie on the table.)

Mr. ABRAMAH (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. BREAUX) submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

At the end of title XII, add the following new subtitle:

Subtitle K—Enhanced Enterprise Zones SEC. 12971. SHORT TITLE

This subtitle may be cited as the "Enhanced Enterprise Zones Act of 1995".

SEC. 12972. FINDINGS AND PURPOSE

(a) Findings—The Congress makes the following findings:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness.

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers.

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment.

(4) The provisions creating empowerment zones that were enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation, job creation, educational opportunities, and homeownership in designated enterprise communities and empowerment zones.

(b) Purpose.—The purpose of this subtitle is to increase employment, small business expansion and formation, educational opportunities, and homeownership in economically depressed areas by providing Federal tax incentives, regulatory reforms, school reform pilot projects, and homeownership incentives.

CHAPTER 1—FEDERAL TAX INCENTIVES SEC. 12973. SUBTITLE U

(2) IN GENERAL.—Subchapter U of chapter 1 relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas is amended—

(1) by redesigning part IV as part V,

(2) by redesigning section 1397D as section 1397F, and

(3) by inserting after part III the following new part:

PART IV—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Sec. 1397D. Empowerment zone and enterprise community capital gain.

Sec. 1397E. Empowerment zone and enterprise community stock.

Sec. 1397D. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY CAPITAL GAIN.

(a) General rule.—Gross income does not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

(b) Qualified zone asset.—For purposes of this section—

(i) in general.—The term 'qualified zone asset' means—

(A) any qualified zone stock;

(B) any qualified zone business property; and

(C) any qualified zone partnership interest;

(ii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business;

(iii) by exchange for cash or property (without a bona fide business purpose therefor), in the case of a corporation which made a substantial stock redemption or distribution;

(iv) by a qualified zone estate or trust,

(v) by debts owed to the taxpayer by the corporation.

(b) SPECIAL RULE FOR SUBSTANTIALLY IMPOVERISHED ENTERPRISE COMMUNITY.—

(1) in general.—The term 'substantially impoverished enterprise community' means—

(A) any qualified zone business property;

(B) any qualified zone partnership interest;

(C) any qualified zone asset held for more than 5 years;

(2) definitions.—The term 'substantially impoverished enterprise community' means—

(i) in general.—The term 'substantially impoverished enterprise community' means—

(A) any qualified zone business property;

(B) any qualified zone partnership interest;

(C) any qualified zone asset held for more than 5 years;

(D) by exchange for cash or property (without a bona fide business purpose therefor), in the case of a corporation which made a substantial stock redemption or distribution;

(ii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business;

(iii) by debts owed to the taxpayer by the corporation.
(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone or enterprise community occurs, expires, or is revoked pursuant to section 139(b) on a date other than the last day of the taxable year, the improvement is one that (A) would not have been held by the taxpayer if such property were sold on the date of such asset by such pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years and (B) was held by such entity for more than 5 years and (C) during substantially all of the period the taxpayer held such interest (other than the first or last day of the taxable year) was treated as held under this subsection) by the taxpayer from the partnership solely in exchange for cash.

"(3) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE DESIGNATION NOT QUALIFIED.—The term qualified capital gain' shall not include any gain attributable, directly or indirectly, to such property in the hands of the taxpayer exceeding the greater of—

(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer; or

(II) $5,000.

(4) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—The term qualified enterprise zone property shall not include any gain attributable, directly or indirectly, to such property in the hands of the taxpayer exceeding the greater of—

(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer; or

(II) $5,000.

(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' has the meaning given such term by section 139(b)(3), except that—

(A) in paragraph (3)(A)(ii), the term 'qualified business' shall not include any trade or business of producing property of a type that would be treated as including references to enterprise communities, and

(B) in paragraph (3)(A)(iii), the term 'qualified business' shall not include any trade or business of producing property of a type that would be treated as including references to enterprise communities.

"(6) 10-YEAR SAFE-HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (3)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer, such property shall be treated as having been sold on the date of such asset by such pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years and (C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph: except that the amount of gain to which such paragraph (3)(A)(ii), (3)(A)(iii), or (4)(C) applies on any sale or exchange of such property shall not exceed the amount which would be realized on the sale or exchange of such asset held under this subsection by the taxpayer from the partnership solely in exchange for cash.

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain which is recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(2) RELATED PERSON.—The taxpayer, and a related person, shall not include any gain attributable to periods after the designation of any area as an empowerment zone or enterprise community.
section 1245 by reason of paragraph (2). 

(B) QUALIFIED ENTERPRISE ZONE PROPERTY.—For purposes of this section, the term 'qualified enterprise zone property' means property to which section 1397B(b) applies (for which would apply but for section 179)—

(i) the original use of which commences in an empowerment zone or enterprise community,

(ii) substantially all of the use of which is in such empowerment zone or enterprise community.

(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

(4) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic corporation which:

(i) on the date of issuance to purchase (as determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 179(d)(2)) qualified enterprise zone issuer means any domestic corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

(i) determining the amount of any credit allowable under this chapter, and

(ii) determining the amount of the tax imposed by section 55.

(D) DISQUALIFICATION.—(I) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date the enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (g)(1)), then notwithstanding any provision of this subtitle other than paragraph (2), the tax on the disposition of such stock shall be treated for purposes of section (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

(II) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a designation as an empowerment zone or enterprise community, as the case may be.

(II) OTHER SPECIAL RULES—(I) APPLICATION OF LIMITS TO PARTNERSHIPS AND CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (g) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

(II) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section.

(III) IN SERVICE.—Section 1397F, as so redesignated, is amended by striking the item relating to section 1397D as section 1397F.

(3) Section 1397F. as so redesignated, is amended by inserting after subsection (b)(1), and by adding at the end the following new paragraph:

"(4) the commercial revitalization credit.

(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter I (relating to rules for computing investment credit) is amended by inserting after section 43, the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (2) and inserting "as the case may be" and by inserting after section 46, the following new section:

"(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter I (relating to rules for computing investment credit) is amended by inserting after section 46 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (2) and inserting "as the case may be, and by adding at the end the following new paragraph:

"(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter I (relating to rules for computing investment credit) is amended by inserting after section 46 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (2) and inserting "as the case may be, and by adding at the end the following new paragraph:

"(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter I (relating to rules for computing investment credit) is amended by inserting after section 46 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (2) and inserting "as the case may be, and by adding at the end the following new paragraph:

"(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter I (relating to rules for computing investment credit) is amended by inserting after section 46 the following new section:
(8) a commercial revitalization credit dollar amount which is attributable to any commercial revitalization credit determined under section 48A is carried back to a taxable year ending before the date of the enactment of section 48A.

(9) Paragraph (2) of section 50(a)(3) is amended by striking "and" at the end of the paragraph and inserting "and smaller" after "commercial revitalization credit agency may allocate for any calendar year the amount of the State commercial revitalization credit dollar amount with respect to any building or interest therein and paragraphs (1) and (7) of section 42(h).

(10) "COMMERCIAL REVITALIZATION CREDIT AGENCY."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(11) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENT."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(12) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(13) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(14) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(15) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(16) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(17) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(18) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(19) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(20) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(21) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(22) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(23) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(24) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(25) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(26) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(27) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(28) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(29) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(30) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(31) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(32) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(33) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(34) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(35) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(36) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(37) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(38) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(39) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(40) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(41) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(42) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(43) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(44) "RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENTS."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(45) "PLANS FOR ALLOCATION."—For purposes of this subsection, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

(46) "NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION."—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.
or enterprise community (within the meaning of section 1391 of the Internal Revenue Code of 1986) that has a rule pertaining to the development, activity or undertaking within such zone or community; and

(iii) any not-for-profit enterprise carrying out a significant portion of its activities within such a zone or community.

For purposes of subparagraph (B)(ii), the term 'appropriately Secretary' has the meaning given that term in section 1393(1)(A) of the Internal Revenue Code of 1986.

SEC. 1297A. WAIVER OR MODIFICATION OF AGENCY RULES OF EMPLOYMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) In General.—Chapter 6 of title 5, United States Code, is amended by adding after section 612 the following new section:

"§613. Waiver or modification of agency rules in empowerment zones and enterprise communities

"(a) Upon the written request of any government that furthers job creation, community development, or economic revitalization objectives of the empowerment zone or enterprise community against the effect of the rule unchanged would serve; weighing the public interest which continues to impose additional requirements or of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a) is amended by adding at the end the following new paragraph:

"(d) ENTERPRISE ZONE GRANTS.—The term 'enterprise zone' means an area designated as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986.

"(e) The agency may approve, in its discretion, a petition from the Secretary for which the public interest which continues to impose additional requirements or which such agency has authority to promulgate. as such rule pertains to the carrying out of projects, activities, or undertakings within such zone or community.

"(B) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the proposed change, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the empowerment zone or enterprise community. If such a request is made to any agency other than the Department of Housing and Urban Development or the Department of Agriculture, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development and to the Secretary of Agriculture, whichever is appropriate, at the time the request is made.

"(1) The agency proposes to amend a rule for which a waiver or modification is necessary because the existing rule impedes the implementation of an existing or proposed business or type of business that furthers job creation, community development, or economic revitalization.

"(e) The agency may approve, in its discretion, a petition upon determining that the petition meets the above-stated criteria. The agency may request a waiver or modification of a rule, or to waive or modify a rule if that waiver or modification would—

"(i) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(ii) be likely to present a significant risk to the public health, including environmental or occupational health or safety or of the environment.

"(f) A modified rule shall be enforceable as if it were the issuance of an amendment to the rule being modified or waived.

"(g) If the agency so determines that a petition shall—

"(1) in paragraph (2), by striking "and" and inserting "; and"

"(2) in paragraph (3),—

(A) by striking "federally approved and equivalent State-approved"; and

(B) by striking the period at the end and inserting "; and"

"(3) by adding at the end the following new paragraph:

"(4) to encourage the development of resi-

dential management corporations and residents councils in enterprise zones."

"(A) DEFINITIONS.—Section 860(6) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(6)) is amended by adding at the end the following new paragraphs:

"(B) ENTERPRISE ZONE.—The term 'enterprise zone' means an area designated as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986.

"(C) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' has the same meaning as in section 24(h) of the United States Housing Act of 1937.

"(D) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—Section 186(c)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(c)(1)) is amended to read as follows:

"(1) In General.—In carrying out this sec-

tion, the Secretary may make grants to non-
profit organizations,

"(A) to carry out enterprise zone home-

ownership opportunity programs to promote homeownership in enterprise zones in ac-

count with the purposes of section 186.

"(B) to promote the development of resi-

dent management corporations in enterprise zones.

"(E) ELIGIBLE USES OF ASSISTANCE.—Section 186(d) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(d)) is amended to read as follows:

"(1) in paragraph (1)—

(A) by striking "assistance to" and inserting the following: "assistance to—'

(B) by striking the period at the end and inserting "; and"

"(C) by adding at the end the following:

"(2) in paragraph (2),—

(A) by striking "under this subsection" and inserting 'under subsection (d)(1)'; and

(B) by striking "federally approved and equivalent State-approved"; and

"(F) TERMS AND CONDITIONS OF ASSIST-

ANCE.—Section 186(f)(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(f)) is amended by striking the period at the end and inserting the following new paragraphs:

"(1) PROGRAM REQUIREMENTS.—Section 186(e) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(e)) is amended—

"(1) in paragraph (2), by striking "under this section" and inserting "under subsection (d)(1)"; and

"(2) in paragraph (3), by striking "federally approved and equivalent State-approved"; and

"(H) SELECTION CRITERIA.—Section 186(g)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(g)(1))
is amended by striking 'under this section' and inserting 'under subsection (d)(1)(A)'.

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 186(i) of the Housing and Community Development Act of 1992 (42 U.S.C. 12884(i)) is amended to read as follows:

There are authorized to be appropriated to carry out this section—

(1) $100,000,000 for fiscal year 1997; and
(2) such sums as may be necessary for each of fiscal years 1998, 1999, and 2000.

CHAPTER 4—MODIFICATION OF CPI CALCULATION

SEC. 12879. MODIFICATION OF CPI CALCULATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to calculations made after December 31, 1995, the Bureau of Labor Statistics of the Department of Labor shall reduce the annual percentage change in the Consumer Price Index, as determined without regard to this section, by .05 percentage point.

(2) APPLICABLE AMOUNT—For purposes of subsection (a), the applicable amount shall be

a credit against the tax imposed by this title, in the case of States described in section 3121(v)(2)(C) of such Code, or

the reduction described in subsection (a) shall not apply for purposes of calculating the cost-of-living increases under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.).

SIMON (AND OTHERS) AMENDMENT NO. 2980

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. Stevens, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

On page 1772, line 3, strike '1995' and insert '1994'.

BAUCUS AMENDMENT NO. 2991

Mr. BAUCUS proposed an amendment to the bill S. 1357, supra as follows:

On page 1469, strike line 8 through 11, and insert the following:

(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

<table>
<thead>
<tr>
<th>Taxable year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>$100</td>
</tr>
<tr>
<td>1997</td>
<td>$100</td>
</tr>
<tr>
<td>1998</td>
<td>$100</td>
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<td>1999</td>
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<td>2000</td>
<td>$100</td>
</tr>
<tr>
<td>2001</td>
<td>$100</td>
</tr>
<tr>
<td>2002</td>
<td>$100</td>
</tr>
<tr>
<td>2003</td>
<td>$100</td>
</tr>
</tbody>
</table>

For taxable years beginning in the applicable calendar year—

<table>
<thead>
<tr>
<th>dollar amount is—</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>6,700</td>
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<td>6,700</td>
<td>6,700</td>
</tr>
<tr>
<td>1,000</td>
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<tr>
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<td>7,400</td>
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<tr>
<td>3,000</td>
<td>7,850</td>
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<tr>
<td>4,000</td>
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<td>9,350</td>
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</tbody>
</table>

REID (AND OTHERS) AMENDMENT NO. 2992

Mr. EXON (for Mr. Reid for himself, Mr. BRYAN, Mr. BUMPERS, and Mr. CRAIG) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of subsection E of chapter I of title 15 of title II of the Internal Revenue Code, insert the following new section:

SEC. 114. LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 15 of the Internal Revenue Code is amended by adding at the end thereof the following new section:

(2) The term 'retirement income' means

income from—

(A) a qualified trust under section 401(a) of such Code;

(B) an annuity contract described in section 403(b) of such Code;

(C) an individual retirement plan described in section 403(k) of such Code;

(D) an individual retirement plan described in section 4031(a)(7) of such Code;

(E) a deferred compensation plan described in section 457 of such Code;

(F) an employee stock ownership plan described in section 457(h) of such Code;

(G) an individual retirement plan described in section 403(b) of such Code;

(H) a trust described in section 501(c)(18) of such Code;

(i) any plan, program, or arrangement described in section 501(c)(2) of such Code;

(ii) the life or joint life expectancy of the recipient (for purposes of determining the expected lifetime of the recipient and the designated beneficiary of the recipient), or

(iii) a period of not less than 10 years.

Such term includes any retired or retained pay of a member or former member of a uniformed service component under chapter 71 of title 10, United States Code.

(b) Term 'income tax' has the meaning given such term by section 114(a).

(c) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

(d) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.

D'AMATO AMENDMENT NO. 2993

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

On page 183, between lines 17 and 18, insert the following:

(1) EXEMPTION FOR CERTAIN NEWLY CHARTERED INSTITUTIONS.—

(2) OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(1) SECTION 515 OF THE REVISED STATUTES.—

(1) Section 515 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence by striking 'affected deposit insurance fund' and inserting 'Deposit Insurance Fund'.

(2) INVESTMENTS PROMOTING PUBLIC WELFARE: LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking 'affected deposit insurance fund' and inserting 'Deposit Insurance Fund'.

(3) ADVANCES TO CRITICALLY UNDERCAPITOLIZED DEPOSITORY INSTITUTION.—The 10th undesignated paragraph of section 15(b) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking 'any deposit insurance fund in' and inserting 'the Deposit Insurance Fund of'.

(4) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—The 255th undesignated paragraph of title X of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 9605(g)(1)(A)) is amended—
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(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and
(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

(5) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k) )—

(i) in the subsection heading, by striking "SAIF and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund member’ and inserting "Deposit Insurance Fund’; and

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund’ and inserting "Deposit Insurance Fund’;

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B)) —

(i) in the paragraph heading, by striking "SAIF—INSURED BANKS’ and inserting "CHARTER CONVERSIONS’; and

(ii) by striking "Savings Association Insurance Fund member’ and inserting "savings association’;


(E) in section 21B(e) (12 U.S.C. 1410(b)(1))—

(i) by striking "as of the date of funding’ after "Savings Association Insurance Fund members’ each place such term appears; and

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1410(b)(1))—

(i) by striking paragraph (8); and

(ii) by redesigning paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(6) AMENDMENTS TO THE HOME OWNERS’ LOAN ACT.—The Home Owners’ Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1448) —

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund’;

(ii) in subsection (c)(6)(B), by striking "As used in this subsection’— and inserting "For purposes of this subsection, the following definitions shall apply’;

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member’;

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member’ and inserting "insured by the Deposit Insurance Fund’;

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund’ and inserting "Deposit Insurance Fund’;

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund’ and inserting "Deposit Insurance Fund’; and

(vii) in subsection (v)(1)(A)(ii), by striking "the Savings Association Insurance Fund’ and inserting "the Deposit Insurance Fund’; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or’ at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and’ at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund’ and inserting "Deposit Insurance Fund’; and

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or Bank Insurance Fund’ and inserting "Deposit Insurance Fund’;

(v) in subsection (m)(3), by striking subparagraph (E), and by redesigning subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(7) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1732(b)(1)(B)), by striking "the Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations’ and inserting "Deposit Insurance Fund’; and

(B) in section 528(b)(1)(B)(ii) (12 U.S.C. 1735f-h(1)(B)(ii)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations’ and inserting "Deposit Insurance Fund’;

(8) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(11) (12 U.S.C. 1813(a)(11)), by striking subparagraph (B) and inserting the following:

(B) includes any former savings association’;

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund’ and inserting "Deposit Insurance Fund’;

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) by striking "the reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund’ and inserting "the reserve ratio of the Deposit Insurance Fund’;

(ii) by striking subparagraph (B) and inserting the following:

(1) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund’;

(iii) by striking "(I) UNINSURED INSTITUTIONS’; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively and moving the margins 2 ems to the left; and

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (3), by striking "Bank Insurance Fund’ and inserting "Deposit Insurance Fund’;

(ii) by striking paragraph (6); and

(iii) by redesigning paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively.

(F) in section 6(5) (12 U.S.C. 1816(5))—

(i) by striking "the Bank Insurance Fund or the Savings Association Insurance Fund’ and inserting "Deposit Insurance Fund’;

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund’ and inserting "the Deposit Insurance Fund’;

(ii) in clauses (i), (ii) (12 U.S.C. 1821(f)), by striking "except that—’ and all that follows through the end of the paragraph and inserting a period; and

(J) in section 11(1)(D) (12 U.S.C. 1821(d)(1))—

(i) by striking subparagraph (B); and

(ii) by redesigning subparagraph (C) as subparagraph (B), and

(iii) in subparagraph (B) (12 U.S.C. 1821(d)(1))—

by striking "(A)’ and inserting "(B)’; and

(K) in section 11A(1)(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES’; and all that follows through the end of the subsection and inserting "EXCEPTIONS’; and

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund, and inserting "the Deposit Insurance Fund’;

(L) in section 11A(2) (12 U.S.C. 1821a(b)), by striking paragraph (4); and

(M) in section 11A(7) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund’ and inserting "Deposit Insurance Fund’;

(N) in section 13 (12 U.S.C. 1823) —

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund or the Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund’ and inserting "the Deposit Insurance Fund’;

(ii) in subsection (c)(4)(C)—

(I) in the paragraph heading, by striking "FUNDS’ and inserting "FUND’; and

(ii) by striking "each insurer’s’ and inserting "the Deposit Insurance Fund’; and

(iii) in subsection (c)(5)(C)—

(i) by striking "each insurer’s’ and inserting "the Deposit Insurance Fund’; and

(ii) by striking "(A)’ and inserting "(B)’; and

(iii) by striking "the members of the insurance fund of which such institution is a member’ and inserting "insured depository institutions’; and

(iii) by striking "each insurer’s’ and inserting "each insured depository institution; and
(IV) by striking "the member’s" each place such term appears and inserting "the institution’s" each place such term appears and inserting "the Deposit Insurance Fund";

(v) in subsection (e), by striking paragraph (1);

(vi) in subsection (b), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vii) in subsection (k)(i)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(viii) in subsection (k)(i)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund"; and

(9) in section 14(b) (12 U.S.C. 1824(b))—

(i) by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) in section 20 (12 U.S.C. 1842) by striking "the Deposit Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(iii) in section 51 (12 U.S.C. 1851) by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in section 91 (12 U.S.C. 1861(c))—

(i) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "the Deposit Insurance Fund"; and

(ii) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(v) in section 131 (12 U.S.C. 1831m) by striking paragraph (1) and inserting paragraph (1); and

(vi) by striking paragraph (2) and inserting paragraph (2);

(vii) in section 181 (12 U.S.C. 1828a) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(viii) in section 181 (12 U.S.C. 1828a) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ix) in section 181 (12 U.S.C. 1828a) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(x) in section 181 (12 U.S.C. 1828a) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(xi) in section 181 (12 U.S.C. 1828a) by striking paragraph (1) and inserting paragraph (1); and

(xii) in section 181 (12 U.S.C. 1828a) by striking paragraph (2) and inserting paragraph (2).

(9) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law. 101-73; 128 Stat. 183) is amended—

(A) in section 1311(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund";

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".


(11) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act of 1934 (12 U.S.C. 1841(j)(2)) is amended by striking "the Bank Insurance Fund, the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

On page 199, line 12, strike "(e)" and insert "(f)".

HUTCbHSON (AND OTHERS)

AMENDMENT NO. 2994

Mrs. HUTCbHSON (for herself, Mr. McCaIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVINE) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in non-Serb areas subjecting non-Serbs to torture—murder, rape, robbery and other violence.

(4) The occasional examples of "ethnic cleansing" persist in Northern Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a barren landscape and that refugees are still fleeing against the will of the "girls as young as 17 are reported to have been taken into wooded areas and raped." (El-

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes in the mid-September in Bosnia Serb controlled areas.

In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton declared the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals is incompatible goals. I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails."

(11) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) The Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina.

(2) With peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of atrocities are of grave concern to all Americans.

(3) The Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) The International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.

(5) The Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) The United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) The United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and turn over to trial any indicted persons found in their countries.

(8) Ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes against humanity and genocide and other human rights violations in former Yugoslavia must be held accountable.
HEFLIN (AND SHELBY) AMENDMENT NO. 2995
Mr. DOMENICI (for Mr. Heflin, for himself, and Mr. Shelby) proposed an amendment to the bill S. 1357, supra as follows:

On page 173, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS—Section 184 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:—

"(c) Restriction on punitive damages not to apply in certain cases.—The restriction on the application of subsection (b) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1985 and without regard to any modification after such date) provides, or has been construed to provide by court of competent jurisdiction pursuant to a decision issued on or before September 13, 1985, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (d).

(b) EFFECTIVE DATE.—

KENNEDY AMENDMENT NO. 2996
Mr. KENNEDY proposed an amendment to the bill S. 1357, supra as follows:

On page 485 between lines 8 and 9, insert the following:

"(q) Prohibition of balance billing.—Notwithstanding any other provision of law, an individual who is enrolled in a Medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance and deductibles described in the plan that is applicable under the plan in accordance with subsection (c)."

D'AMATO (AND OTHERS) AMENDMENT NO. 2997
(Ordered to lie on the table.)
Mr. D'AMATO (for himself, Mr. Grams, and Mr. Shelby) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. 1201. CONFORMING AMENDMENTS.

FAIRCLOTH AMENDMENT NO. 2998
(Ordered to lie on the table.)
Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1357, supra as follows:

On page 187, line 3:

FEINGOLD (AND OTHERS) AMENDMENT NO. 2999
Mr. FEINGOLD (for himself, Mr. Pressler, Mr. Grams, Mr. McCain, Mr. Kohn, and Mr. Wellstone) proposed an amendment to the bill S. 1357, supra as follows:

On page 33, strike lines 21 through 24.

FEINGOLD (AND WELLSTONE) AMENDMENT NO. 3000
(Ordained to lie on the table.)
Mr. FEINGOLD (for himself and Mr. Wellstone) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

At the end of chapter 8 of subtitle I of title XII, add the following:

SEC. 1205. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) General Rule.—(1) Paragraph (b) of section 613(b) relating to percentage depletion rates is amended—

"(A) by striking "uranium" and "mercury," and inserting "uranium, mercury, " in subparagraph (B),

"(B) by striking "asbestos," "lead," and "mercury," in subparagraph (B),

"(C) by striking "asbestos,"", "lead, and mercury," in subparagraph (B),

"(D) by striking "asbestos" if paragraph (1)(B) does not apply.

(2) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B) and inserting ". or", and by inserting after subparagraph (C) the following new subparagraph:

""(E) mercury, uranium, lead, and asbestos.

(b) Conforming Amendments.—Subparagraph (D) of section 613(c)(4) is amended by striking "asbestos" if paragraph (1)(B) does not apply.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

FEINGOLD AMENDMENT NO. 3001
(Ordained to lie on the table.)
Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1357, supra as follows:

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals with Disabilities

SECT. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) General.—(1) Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 1915(c) may receive payment in accordance with section 1915(c).

(b) Entitlement to Services.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State assure financial arrangements to pay for personal assistance services. The amount for a fiscal year is an amount equal to the State maintenance of effort for that year determined under section 1902(a) minus the amount for such year of the sums provided under section 1915(b) minus any transfers made to any other program.

(c) Designation of Agency.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SECT. 7502. STATE PLANS.

(a) Plan Requirements.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) In General.—A State plan under this subtitle shall provide that the State will, during any fiscal year, spend all funds provided to the State under this subtitle for home and community-based services for individuals with disabilities. States that fail to meet the requirements of this section shall be subject to penalties under section 1915(c). State plans shall be approved by the Secretary under section 1915(c) of the Social Security Act.

(B) State Maintenance of Effort Amount.—

(A) in General.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(i) for fiscal year 1997, the base amount for the State (as determined under clause (ii) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the Producer Price Index for Construction (PPI) during the period beginning on October 1, 1995, and ending at that midpoint: and

sin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

the first bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the vetoed version of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) Short Title.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995.'

(c) Table of Contents.—The table of contents of this subtitle is as follows:

Sec. 7500. Purposes. short title; table of contents.

Sec. 7501. State programs for home and community-based services for individuals with disabilities.

Sec. 7502. State plans.

Sec. 7503. Individuals with disabilities defined.

Sec. 7504. Home and community-based services covered under State plan.

Sec. 7505. Cost sharing.

Sec. 7506. Quality assurance and safeguards.

Sec. 7507. Advisory groups.

Sec. 7508. Payments to States.

Sec. 7509. Appropriations: allotments to States.

SECT. 7505. ADVISORY GROUPS.

Sec. 7505. Advisory groups.

Sec. 7506. Quality assurance and safeguards.

Sec. 7507. Advisory groups.

Sec. 7508. Payments to States.

Sec. 7509. Appropriations: allotments to States.

OCTOBER 27, 1995

CONGRESSIONAL RECORD—SENATE

S 16119

On page 187, line 22:

Strike "5" and insert "10".
For home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as provided under such title, the provisions of this section shall be interpreted to provide that the plan will be allocated among covered individuals with disabilities and (as defined in section 7503(b)) to such individual an appropriate level of assistance for home and community-based services.

(c) Index described.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(d) Medicare services described.—The services described in this subparagraph are the following:

(i) personal care services (as described in section 7504(b)(1)(B) of the Developmental Disabilities Assistance and Bill Rights Act (42 U.S.C. 6001 et seq.));

(ii) home and community-based services furnished under the State plan in accordance with section 7504(b)(1)(B) that includes informal care services furnished in a residential setting that is not an institutional setting (other than a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting).

(e) Continuation of services.—The plan shall provide for services to recipients who wish to apply but whose disability limits the eligibility of individuals with disabilities, as determined by the State, for services to receive and the providers who are licensed, certified, or otherwise certified or approved for services that are covered under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(f) Payment rates.—The plan shall specify the methods and criteria to be used to set payment rates for services furnished under the plan.

(ii) agency administered services furnished under the plan.

(iii) consumer-directed personal assistance services furnished under the plan, including any payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(g) Coordination.—The plan shall require that the services under the plan be coordinated with each other and with other services available to such individual, except that through fiscal year 2005, the plan may permit a State to limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the Secretary.

(h) Continuation of services.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.), as provided under such title, the provisions of this section shall be interpreted to provide that the plan will be allocated among covered individuals with disabilities and (as defined in section 7503(b)) to such individual an appropriate level of assistance for home and community-based services.

(i) Needs assessment.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle. and the services available to meet the needs of such individuals.

(j) Specific services.—In the case of a State plan consistent with section 7504, the plan shall specify:

(i) the services made available under the plan to individuals with disabilities;

(ii) the extent and manner in which such services are provided to individuals with disabilities;

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available to the individual;

(iv) the extent and manner in which such services are provided to individuals with disabilities;

(v) the proportion of the population of low-income individuals with disabilities in the State and the number of individuals in such categories of individuals with disabilities, the availability of informal care of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(k) Continuation of services.—The plan shall provide for services to recipients who wish to apply but whose disability limits the eligibility of individuals with disabilities, as determined by the Secretary, for services to receive.

(l) Continuation of services.—The plan shall provide for services to recipients who wish to apply but whose disability limits the eligibility of individuals with disabilities, as determined by the Secretary, for services to receive and the providers who are licensed, certified, or otherwise certified or approved for services that are covered under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(m) Payment rates.—The plan shall specify the methods and criteria to be used to set payment rates for services furnished under the plan.

(ii) agency administered services furnished under the plan.

(iii) consumer-directed personal assistance services furnished under the plan, including any payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(n) Coordination.—The plan shall require that the services under the plan be coordinated with each other and with other services available to such individual, except that through fiscal year 2005, the plan may permit a State to limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the Secretary.

(o) Continuation of services.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.), as provided under such title, the provisions of this section shall be interpreted to provide that the plan will be allocated among covered individuals with disabilities and (as defined in section 7503(b)) to such individual an appropriate level of assistance for home and community-based services.

(p) Needs assessment.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle. and the services available to meet the needs of such individuals.

(q) Specific services.—In the case of a State plan consistent with section 7504, the plan shall specify:

(i) the services made available under the plan to individuals with disabilities;

(ii) the extent and manner in which such services are provided to individuals with disabilities;

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available to the individual;

(iv) the extent and manner in which such services are provided to individuals with disabilities;

(v) the proportion of the population of low-income individuals with disabilities in the State and the number of individuals in such categories of individuals with disabilities, the availability of informal care of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(r) Payment rates.—The plan shall specify the methods and criteria to be used to set payment rates for services furnished under the plan.

(ii) agency administered services furnished under the plan.

(iii) consumer-directed personal assistance services furnished under the plan, including any payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(s) Coordination.—The plan shall require that the services under the plan be coordinated with each other and with other services available to such individual, except that through fiscal year 2005, the plan may permit a State to limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the Secretary.

(t) Continuation of services.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.), as provided under such title, the provisions of this section shall be interpreted to provide that the plan will be allocated among covered individuals with disabilities and (as defined in section 7503(b)) to such individual an appropriate level of assistance for home and community-based services.

(u) Needs assessment.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle. and the services available to meet the needs of such individuals.

(v) Specific services.—In the case of a State plan consistent with section 7504, the plan shall specify:

(i) the services made available under the plan to individuals with disabilities;

(ii) the extent and manner in which such services are provided to individuals with disabilities;

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available to the individual;
(iii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective for fiscal years after the 2004 fiscal year, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative services.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. The State shall notify the Secretary of the name and address of the clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SECTION 7503. INDIVIDUALS WITH DISABILITIES DEFINED

(a) IN GENERAL.—For purposes of this subsection, the term "individual with disabilities" means an individual who is within one or more of the following categories of individuals:

(I) INDIVIDUAL'S REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(II) INDIVIDUAL WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age who

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specification, indicates that the individual has either severe cognitive impairment or severe mental impairment, or both;

(B) who

(i) requires hands-on or standby assistance, supervision, or cueing with at least one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is, a list of such problem specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 30 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make such determination, in order to preserve the availability of ongoing technical assistance to States under this section.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN

(a) SPECIFICATION.—

(I) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) home and community-based services available under the plan to individuals with disabilities (or such categories of such individuals) and

(B) any limits with respect to such services.

(II) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.

(I) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services shall be completed for each individual (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool. Such an assessment tool shall be developed and promulgated by the Secretary in collaboration with the State and agencies (not a provider of home and community-based services under this subtitle).

(ii) REQUIREMENT TO WAIVE PROVISIONS OF CLAUSE (I) (F).—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due
to a low population of individuals eligible for home and community-based services under the State plan and residing in the area: and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) SPECIALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle. The State plan may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an infeasibility to develop individualized plans of care in such an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(C) REQUIREMENT FOR CARE MANAGEMENT.—

(A) IN GENERAL.—A plan of care under this subpara-

graph shall—

(i) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(ii) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify individuals with disabilities described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(II) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) shall be—

(i) developed by qualified individuals (specified in subparagraph (B));

(ii) developed and implemented in close coordination with the individual (or the individual's designated representative); and

(iii) approved by the individual (or the individual's designated representative).

(III) REQUIREMENT FOR CARE MANAGEMENT.—

(I) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(II) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (I) shall be provided by a public or private entity that—

(i) is not providing home and community-based services under this subtitle;

(ii) is not providing home and community-based services in an area where there is a low population of individuals eligible for home and community-based services under this subtitle residing in such an area; and

(iii) provides home and community-based services in the area.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an individual identified as being unwilling to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(D) MANDATORY COVERAGE OF PERSONAL AS-

ISTANCE SERVICES.—The State plan shall in-

clude, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(E) ADDITIONAL SERVICES.—

(i) TYPE OF SERVICES.—Subject to sub-

section (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices as defined in section 3(2) of the Technology-Related Assistance of Individuals With Disabilities Act of 1988 (29 U.S.C. 2001(2)).

(E) Adult day care services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(II) CRITERIA FOR SELECTION OF SERVICES.—

The State electing services under paragraph (I) shall specify in the State plan—

(A) the methods and standards used to select the types and amount, and scope of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope of services specified within the limits of funding available, protect individuals from potential abuse, neglect, or exploitation, and individualize to individuals within each of the categories of individuals with disabilities.

(III) EXCLUSION OF ILLNATIONS.—A State plan may not provide for coverage of—

(A) room and board;

(B) services provided in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting, or

(C) services that are not consumer-directed, for purposes of paragraph (I), the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age or stage of the individual and the nature of the disability (or disabilities), of such individuals with income not less than 150 percent, and less than 225 percent, of such official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(E) IN GENERAL.—For purposes of this paragraph, the term "consumer-directed personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age or stage of the individual and the nature of the disability (or disabilities), of such individuals with income not less than 150 percent, and less than 225 percent, of such official poverty level applicable to a family of the size involved.

(II) SLIDING SCALE FOR REMAINDER.—

A State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for such individuals with disabilities with income not less than 150 percent, and less than 225 percent, of such official poverty level line (as so applied); and

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty level line (as so applied).

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 325 percent, of such official poverty level line (as so applied); and

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty level line (as so applied); and

(E) at a rate of 35 percent for such individuals with income not less than 300 percent, and less than 400 percent, of such official poverty level line (as so applied); and

(F) at a rate of 40 percent for such individuals with income not less than 400 percent, and in excess of 400 percent, of such official poverty level line (as so applied).

(III) REQUIRED DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty level line (as so applied); and

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty level line (as so applied); and

(IV) REQUIRED COINSURANCE.—The State plan shall be construed as including" the provisions of this subsection, and the phrase "incorporate" shall be construed as including the provisions of this subsection.

(IV) REQUIRED COINSURANCE.—The State plan shall be construed as including the provisions of this subsection, and the phrase "incorporate" shall be construed as including the provisions of this subsection.

(IV) REQUIRED DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty level line (as so applied); and

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty level line (as so applied); and

(C) of $400 for such individuals with income not less than 225 percent, and less than 325 percent, of such official poverty level line (as so applied); and

(D) of $600 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty level line (as so applied).
percent. of such official poverty line (as so applied); and
$500 for such individuals with income less than 325 percent, and less than 400 percent. of such official poverty line (as so applied); and
(2) 25% for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) REQUIREMENTS OF THE SECRETARY.—
(1) In general.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs. The cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(2) Determination of income for purposes of cost sharing.—The State plan shall specify the process to be used to determine the income of an individual for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

(3) The development of a registry of providers who provide direct services under this subchapter shall be enforced:

(A) mandatory reporting of abuse, neglect, or exploitation;
(B) keeping a record of any complaints and investigations received.

(4) The development of a registry of providers who provide direct services under this subchapter.

(a) Quality assurance and safeguards.

(1) In general.—Each State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguards in cases where payment for services in the State is made by cash payments or vouchers given directly to individuals with disabilities. All providers of services shall be required to register with the State agency.

(2)_sanctions to be imposed on States or local authorities: and

(b) Federal standards.—

(1) Establishment.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(i) The right to be fully informed in advance, timely and in a language of the care to be provided, to be fully informed in advance of any changes in care to be provided, and except with respect to an individual determined incompetent to participate in planning care or changes in care.

(ii) The right to confidentiality of personal and clinical records and the right to have access to such records.

(iii) The right to privacy and to have one's property treated with respect.

(iv) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(v) The right to free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(2) The right to be fully informed orally and in writing of the individual's rights.

(3) The right to a free choice of providers.

(4) The right to direct provider activities when an individual is competent and willing to direct such activities.

(5) The right to review, or to have a representative of one's family or household on the management of care.

(6) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(b) In general.—Each State plan shall provide that

(1) the State agency shall establish a methodology for reducing the cost-sharing burden for individuals with disabilities.

(c) Determination of income for purposes of cost sharing.—The State plan shall provide that

(1) Case review of a specified sample of clients and beneficiaries to purposes directly connected with the administration of the plan.

(2) Safeguards against abuse.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation, including appropriate policies and procedures in cases where payment for program benefits is made by cash payments or

(d) In general.—Each State plan shall provide that

(1) the State agency shall establish a methodology for reducing the cost-sharing burden for individuals with disabilities. All providers of services shall be required to register with the State agency.

(2) Safeguards against abuse.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation, including appropriate policies and procedures in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities. All providers of services shall be required to register with the State agency.

(3) Regulations.—Not later than January 1, 1997, the Secretary shall promulgate regulations governing the application of the provisions of this section.

Sec. 7507. Advisory groups.

(a) Federal advisory group.—

(1) Establishment.—The Secretary shall establish an advisory group to advise the Secretary and States on all aspects of the State plan under this subtitle.

(2) Composition.—The group shall be composed of

(a) individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) State advisory groups—

(1) In general.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) Composition.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the committee representing the majority of its members shall be individuals with disabilities and their representatives. The members of the committee representing the majority of its members shall be individuals with disabilities and their representatives.

(3) Selection of members.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate individuals to serve on advisory groups.

(4) Particular concerns.—Each advisory group shall—
payable to the public specifically the degree to which the groups recommendations and the plan:

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 1121(b) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1121(a) of such Act.

SEC. 7509. APPROPRIATIONS: ALLOTMENTS TO STATES

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(G), for purposes of this subtitle, the appropriation authorized under this section for any fiscal year through 2005 is the following:

(A) For fiscal year 1997, $7,200,000,000.

(B) For fiscal year 1998, $7,400,000,000.

(C) For fiscal year 1999, $7,600,000,000.

(D) For fiscal year 2000, $7,700,000,000.

(E) For fiscal year 2001, $7,800,000,000.

(F) For fiscal year 2002, $7,900,000,000.

(G) For fiscal year 2003, $8,200,000,000.

(H) For fiscal year 2004, $8,500,000,000.

(I) For fiscal year 2005, $12,100,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for States under this section for the preceding fiscal year multiplied by—

(A) a factor described in paragraph (b) reflecting the consumer price index for the fiscal year; and

(B) a factor described in paragraph (b) reflecting the change in the number of individuals with disabilities for the fiscal year.

(b) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph is the following:

(1) the annual average index of the consumer price index for the preceding fiscal year;

(2) such index, as so measured, for the second preceding fiscal year.

(c) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(d) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(1) IN GENERAL.—Each participating State under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(2) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Governor and make available to the public the extent practicable;

(e) REPORTS TO STATES.—

(1) IN GENERAL.—For each fiscal year beginning with fiscal year 1997 and ending with fiscal year 2005, the revised appropriation authorized under this subsection for such fiscal year.

(f) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

SEC. 7510. APPROPRIATIONS: ALLOTMENTS TO STATES

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(G), for purposes of this subtitle, the appropriation authorized under this section for any fiscal year through 2005 is the following:

(A) For fiscal year 1997, $12,100,000,000.

(B) For fiscal year 1998, $12,300,000,000.

(C) For fiscal year 1999, $12,500,000,000.

(D) For fiscal year 2000, $12,700,000,000.

(E) For fiscal year 2001, $12,900,000,000.

(F) For fiscal year 2002, $13,100,000,000.

(G) For fiscal year 2003, $13,300,000,000.

(H) For fiscal year 2004, $13,500,000,000.

(I) For fiscal year 2005, $17,300,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for States under this section for the preceding fiscal year multiplies by—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State;

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line as described in section 7503(a)(2) in all States that reside in a particular State.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allocate the amount available under the appropriation authorized for the fiscal year under paragraph (1) subsection (a) without regard to any adjustment to such amount under paragraph (5) of such subsection, to the States with plans approved under this section in accordance with an allocation formula established by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State;

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line as described in section 7503(a)(2) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the amount the State’s total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1121(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for States under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) MEANING OF CONSUMER PRICE INDEX.—(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection
shall allot to each State with a plan approved under section 1902(a) an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that would be reduced under subparagraph (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal expenditures for medical assistance under the State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal expenditures and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 1902(c) of the Social Security Act); multiplied by

(ii) 101 percent for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in such index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(iii) 100 percent for any fiscal year, any amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect price underestimations or overestimations under this clause in the projected percentage change in such index.

(c) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services prescribed under this section.

(d) MEDICAL ASSISTANCE PLAN.—For purposes of this section, the term 'medical assistance plan' means the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) as the term is applied by substituting $20,000 for $10,000.

(e) MEDICAL ASSISTANCE PLAN.—For purposes of this section—

(i) the qualified net farm gain for the taxable year on account of such tax-exempt assets held by the individual for such taxable year; or

(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

(f) DETERMINATION.—The determination under subparagraph (B) shall be made by the Secretary which is similar to the information described in section 408(o)(4)(B) and prescribed under this section with respect to a contribution to an asset rollover account.

(g) DISTRIBUTION RULES.—For purposes of this section—

(i) a distribution shall be allowed under section 1211 for the taxable year if the distribution is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof); and

(ii) a distribution shall be allowed under section 1211 for the taxable year if the distribution is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(h) DISTRIBUTION RULES.—For purposes of this section—

(i) a distribution shall be allowed under section 1211 for the taxable year if the distribution is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof); and

(ii) a distribution shall be allowed under section 1211 for the taxable year if the distribution is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(i) AMOUNTS.—For purposes of this section—

(i) the qualified net farm gain is the lesser of—

(A) the qualified net farm gain from the sale of the asset to the qualified farmer, reduced by the aggregate amount for all taxable years which may be contributed to all asset rollover accounts in such manner as the Secretary may prescribe.

(B) the amount by which the aggregate value of the assets held by the individual in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

(j) IN GENERAL.—Any individual who—

(i) makes a contribution to an asset rollover account for any taxable year; or

(ii) receives any amount from an asset rollover account for any taxable year, shall include on the return of tax imposed by chapter I for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

(k) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 4973(a)(1)(B) and prescribed under this section with respect to a contribution to an asset rollover account.

(l) PENALTIES.—For penalties relating to reports under this section, see section 6693(b).
(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1033A" after "rollover contributions".

(3) (A) Subparagraph (A) of section 663(h)(2) is amended by inserting "or 1034A(d)(1)" after "408(o)(4)".

(B) Section 663(h)(2) is amended by inserting or 1034A(d)(1) after "408(o)(4)".

(C) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

(1) IN GENERAL.—Except as provided in subparagraph (B), no nonrecognition provisions shall apply for purposes of this section to a transaction only in the case of—

"(A) an exchange of stock in a domestic corporation for property the sale of which would be subject to taxation under this chapter, or

"(B) a distribution with respect to which gain or loss would not have been recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

(2) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent avoidance of Federal income taxes) providing—

"(1) transfers of property in a reorganization

and

"(2) changes in interests, or in distributions from a partnership, trust, or estate, shall be treated as sales of property at fair market value.

(3) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term "nonrecognition provision" means any provision of this title for not recognizing gain or loss.

(4) CERTAIN OTHER RULES APPLICABLE TO STOCK; TREATMENT OF CERTAIN GAINS AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subsection, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the dividends of similar to the rules of sections 1248(c) (determined without regard to paragraph (2)(D) thereof) and shall apply for purposes of the preceding sentence.

(5) REGULATIONS.—The Secretary shall prescribe regulations as may be necessary or appropriate to carry out the purposes of this section.

(6) TREATMENT OF CERTAIN GAINS.—For purposes of this paragraph, the term "taxpayer" includes any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition, if the individual owned 10 percent or more (by value or vote) of the stock in the domestic corporation.

(2) CONSTRUCTIVE OWNERSHIP.—(A) In subparagraph (B) of section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

(B) MODIFICATIONS.—For purposes of subparagraph (A),—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such provision would not apply but for such clause (i), (by considering a corporation as owning stock directly other than through a partnership or (ii) by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

the partnership shall, with respect to the stock which such shareholder owns in such corporation, be treated as a 10-percent shareholder in such corporation.

(B) EXCEPTION.—

"(1) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(II) the partnership did not own 50 percent or more of the capital or profits interests in such partnership held by such partnership which was less than 25 percent of the partnership's net adjusted asset cost.

and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term "nonrecognition provision" shall be treated as including a reference to any predecessor thereof.

(D) TREATMENT OF CERTAIN GAINS.—For purposes of this section, and

"(I) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation
purposes of this section—

‘(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

‘(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock of a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

‘(B) Special Rule.—If such withholding agent does not know (or have reason to know) that such affidavit is incorrect.

‘(A) Withholding Agent.—The term ‘withholding agent’ means a person who is required to pay over any amount under subsection (a) because—

‘(i) the transferor is not a foreign person, or

‘(ii) the transferee is not a 10-percent shareholder.

‘(B) Stock Which is Regularly Traded.—

‘(A) In General.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) in the case of any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

‘(B) Special Rule Where Substantial Dispositions.—Except as otherwise provided in this section, the amendments made by this section shall apply to dispositions after December 31, 1995, except as provided in section 1447 of the Internal Revenue Code of 1986 (as added by this section) and the regulations prescribed under such section.

‘(c) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this Act.

CONFORMING AMENDMENT—Paragraph (4) of section 884(e) is amended to read as follows:

‘(ii) stock of such domestic corporation is owned by another foreign entity which is or organized in such foreign country and the interests in which are so traded.

‘(d) FOREIGN ENTITY.—For purposes of this section—

‘(1) INTERESTS IN SUCH ENTITY ARE PRIMARILY AND REGULARLY TRADED ON AN ESTABLISHED SECURITIES MARKET IN SUCH COUNTRY, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(3) THE TABLE OF SUBJECTS FOR PUBLICLY TRADED ENTITIES—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(4) FOREIGN ENTITY.—For purposes of this subsection, the term ‘foreign entity’ means any corporation, partnership, trust, estate, or other entity which is not a United States person.

‘(5) QM QUALIFIED RESIDENT.—For purposes of this subsection, the term ‘qualified resident’ means any corporation, partnership, trust, estate, or other entity which is not a United States person.

‘(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(1) interests in such entity are primarily and regularly traded on an established securities market in such country, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(3) THE TABLE OF SUBJECTS FOR PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(i) interests in such entity are primarily and regularly traded on an established securities market in the United States, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(4) FOREIGN ENTITY.—For purposes of this subsection, the term ‘foreign entity’ means any corporation, partnership, trust, estate, or other entity which is not a United States person.

‘(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(1) interests in such entity are primarily and regularly traded on an established securities market in such country, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(3) THE TABLE OF SUBJECTS FOR PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(4) FOREIGN ENTITY.—For purposes of this subsection, the term ‘foreign entity’ means any corporation, partnership, trust, estate, or other entity which is not a United States person.

‘(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(1) interests in such entity are primarily and regularly traded on an established securities market in such country, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(3) THE TABLE OF SUBJECTS FOR PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

‘(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

‘(ii) such entity is not described in subparagraph (A)(i) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

‘(4) FOREIGN ENTITY.—For purposes of this subsection, the term ‘foreign entity’ means any corporation, partnership, trust, estate, or other entity which is not a United States person.
has the meaning given to such term by section 894(c)(3).

(2) PROVISIONAL DETERMINATION.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty entered into before, on, or after such date.

DOLE (AND OTHERS) AMENDMENT NO. 3003
(Ordered to lie on the table.)
Mr. DOLE (for himself, Mr. KOHL, Mr. GRASSLEY, and Mr. ROTH) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. 16128. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) In general.—In this section, (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:—

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of an individual subject to a Federal limitation on the number of hours of service for food or beverages consumed by an individual during, or incident to, any period of study which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FAVOR SMALL BUSINESS—EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514. 100 Stat. 2545) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

COCHRAN (AND OTHERS) AMENDMENTS NO. 3004
Mr. COCHRAN (for himself, Mr. JEFFORDS, Mr. GORTON, Mr. LEAHY, Mr. COHEN, and Mr. SNOWE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 33, after line 24, insert the following:

(c) Class IV account.—Effective January 1, 1996, section 8(c) of the Agricultural Adjustment Act of 1933 (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following:—

"(i) Each marketing order issued pursuant to this section for milk shall include milk and butterfat used to produce butter, nonfat dry milk, and dry whole milk as part of a Class IV final product.

(2) Class IV account.—The term "Class IV account" means the Account for Class IV final products established under clause (ii).

(3) ADMINISTRATOR.—The term "Administrator means the Administrator of the Class IV account appointed under clause (vii).

(i) Class IV final product.—The term "Class IV final product" means butter, nonfat dry milk, and dry whole milk.

(iv) Milk marketing order.—The term "milk marketing order" means a milk marketing order issued pursuant to this section and any comparable State milk marketing order or system.
Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment:

At the end of the bill, add the following title:

**TITLE XIII: CREDIT FOR ADOPTION EXPENSES**

(a) IN GENERAL—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

**SEC. 24. ADOPTION EXPENSES.**

(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

(b) Limitation.

(1) **DOLLAR LIMITATION.**—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

(2) **INCOME LIMITATION.**—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

**SEC. 25. QUALIFIED ADOPTION EXPENSES.—**

For purposes of this section, the term ‘qualified adoption expenses’ has the meaning given such term by section 24(d).

**CONFORMING AMENDMENTS.—**

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

**Sec. 24. Adoption expenses.**

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

**Sec. 137. Adoption assistance programs.**

**Sec. 138. Cross reference to other Acts.**

(d) **EFFECTIVE DATE.—**The amendment shall be effective after January 2, 1995.

Mr. LAUTENBERG proposed an amendment to amendment No. 3005, proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

Strike all after instructions and insert the following: ‘to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.’

Mr. NICKLES (for himself, Mr. DOLE and Mr. CHAFFE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1322, beginning with line 5, strike all through page 1338, line 17.

Mr. MOYNIHAN proposed an amendment to the bill S. 1357, supra, as follows:

On page 341, strike line 10, and all that follows through page 342, line 8.

Mr. DOMENICI (for Mr. DOLE for himself, Mr. KOHL, Mr. GRASSLEY, Mr. ROTH, Mr. BOND, Mr. ASHCROFT and Mr. KEMPThorne) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:
INCREDIBLE REDUCTIONS IN BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) In General.—Section 274(h) relating to only 50 percent meals for truckers, long-haul bus drivers and other persons subject to the hours of service regulations of the Department of Transportation, paragraph (a) shall be amended by striking '50 percent' for '50 percent'.

(b) Repeal of Special Transition Rule to Financial Institution Exception to Interest Allocation Rules.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. President, the amendment that I am offering will reduce the business meals deduction to 50 percent for truckers, long-haul bus drivers and other persons subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

HUTCHISON (AND OTHERS) AMENDMENT NO. 3015

Mr. DOMENICI (for Mrs. HUTCHISON for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERRY, Mr. THURMOND, and Mr. THOMAS) proposed an amendment to the bill S. 1357, supra as follows:

(a) The Senate makes the following findings:

1. Human rights violations and atrocities continue unabated in the Former Yugoslavia.

2. The Assistant Secretary of State for Human Rights and Humanitarian Affairs recently reported in mid-September and intensifying between October 8 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units. Local police and in some instances, Bosnian Serbs.

3. Despite the October 12, 1995 cease-fire which went into effect by agreement of the government of the Former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serbs who remain in Northwest Bosnia. Some 6,000 refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

4. The U.N. spokesmen in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "many have been taken into wooded areas and raped." Elsewhere, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

5. The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

6. The Assistant Secretary of State for Human Rights has described the eye witness accounts as 'prime facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal.'

7. The U.N. High Commissioner for Refugees recently indicated that more than 28,000 Muslim Croats have taken refuge in countries outside their homes since mid-September in Bosnian Serb controlled areas.

8. The U.N. High Commissioner for Refugees estimates that more than 22,000 people have crossed rivers without bridges.

9. The War Crimes Tribunal for the Former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

10. The Assistant Secretary of State for Human Rights has described the eye witness accounts as 'prime facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal.'

11. The U.N. High Commissioner for Refugees estimates that more than 28,000 Muslim Croats have taken refuge in countries outside their homes since mid-September in Bosnian Serb controlled areas.

12. The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

SEC. 2. PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWN.

(a) In General.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because of a lapse in regular appropriations or continuing resolution.

(b) Retroactive Pay Prohibited.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

GRAHAM AMENDMENT NO. 3014

Mr. DOMENICI (for Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra as follows:

(a) On page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have been approved for coverage by Medicare.

(b) On page 481, between lines 15 and 16, insert the following:

(1) Access to Process.—A Medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as the plan sponsor has determined must be made accessible to each such individual, within the Medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

(c) Effectiveness Date.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.
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brought to justice. They must be tried and, if found guilty, they must be held accountable.

(10) President Clinton also observed on October 18, 1995, "some people are concerned about pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails." [6]

SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights violations against the people of Bosnia and Herzegovina.

(2) with peace talks scheduled to begin in the United Nations on October 31, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral, and illegal, and perpetuates war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

KOHl AMENDMENT NO. 3016
Mr. DOMENICI (for Mr. Kohl) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12978. GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Part III of subchapter O of chapter 8 of subtitle I of title 26, as amended by section 8613, is amended by adding at the end the following new section:

"SEC. 8613A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

(1) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain (or loss) in connection with a disposition of a qualified farm asset.

(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years that may be contributed to any asset rollover account established on behalf of an individual shall not exceed—

(A) in the case of a separate return by a married individual, reduced by—

(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

(3) ANNUAL CONTRIBUTION LIMITATIONS.—

(A) GENERAL.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

(i) the qualified net farm gain for the taxable year, or

(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

(B) SPouse.—In the case of a married couple filing a joint return for such taxable year, subparagraph (A) shall be applied by substituting $20,000 for $10,000.

(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the taxable year in which such contribution is made to an asset rollover account for any taxable year.

(6) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

(1) QUALIFIED FARM ASSET.—The term "qualified net farm gain" means the lesser of—

(A) the net capital gain of the taxpayer for the taxable year, or

(B) the net capital gain for the taxable year determined by only taking into account the property disposed of (or lost) in connection with a disposition of a qualified farm asset.

(2) QUALIFIED FARM ASSET.—The term "qualified farm asset" means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(6)).

(3) QUALIFIED FARMER.—

(A) IN GENERAL.—The term "qualified farmer" means a taxpayer who—

(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

(ii) (w) with the taxpayer's spouse owned 50 percent or more of such trade or business during such 5-year period.

(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 469.

(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

(5) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

(6) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is subject to the information described in section 6104.

(7) PENALTIES.—For penalties relating to reports under this paragraph, see section 6694.

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(8) ROLLOVER CONTRIBUTIONS.—For purposes of this section, in the case of an asset rollover account, any reduction (or loss) (within the meaning of section 1034A) shall be included in gross income for the taxable year in which such reduction (or loss) occurs.

(c) EXCESS CONTRIBUTIONS.—

(1) In General.—Section 4973 (relating to excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(3) ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed this section in respect to a contribution under section 1034A.

(2) CONFORMING AMENDMENTS.—

(A) In General.—Section 401(a)(23) is amended by striking "[asset rollover accounts," after 'contracts' in the item relating to section 401.

(B) The heading for section 4973 is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTS.

(c) The table of sections for chapter 43 is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTS," in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "or contribution.

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or rollover contributions under section 1034A," after "rollover contributions.

(3) Paragraph (A) of section 6693(b)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A)," after "or.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.
SEC. 12890. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 898. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS."

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH A FOREIGN TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any such stock in such domestic corporation shall be taken into account—

"(I) in the case of any nonresident alien individual, under section 871(b)(1), or

"(II) in the case of any foreign corporation, under section 872(a)(1), as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment of the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment.

"(2) TREATMENT OF GAINS.—Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(b) 10-PERCENT MINIMUM TAX ON NON-RESIDENT ALIEN INDIVIDUALS.—

"(1) In general.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(I) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, and

"(II) the individual's net taxable stock gain for the taxable year.

"(2) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(I) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(II) the aggregate losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 871(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual, for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDERS.—

"(1) In general.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(I) the period beginning on January 1, 1986, and ending on the date of the disposition, owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—(A) IN GENERAL.—Section 318(a) (relating to constructive ownership) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (1)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subparagraph (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock of such corporation bears to the value of all stock in such corporation.

"(D) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held directly or indirectly by any nonresident alien individuals or foreign corporations,

"each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) In general.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities owned in such corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

"(B) EXEMPTION.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if—

"(i) the aggregate bases of the stock and securities owned in such corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(ii) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

"(C) EXCEPTION.—Subparagraph (B) shall not apply in the case of any pass-thru entity if—

"(i) the aggregate bases of the stock or securities owned in such corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(ii) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

"(D) SPECIAL RULES.—For purposes of subparagraphs (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(iii) OTHER PASS-THRU ENTITIES: TITLED ENTITIES.—Rules similar to the rules of the preceding paragraphs shall apply in the case of any other pass-thru entity (other than a partnership and in the case of tiered partnerships and other entities).

"(iv) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(I) an exchange of stock in a domestic corporation for other property the sale of which was subject to taxation under this chapter, or

"(II) a distribution with respect to which gain or loss would not be recognized under this chapter, and any amount of such property distributed by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate, shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' includes any provision of the title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (i) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation.

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation otherwise than as a shareholder, the proceeds of which would be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subsection, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined with respect to paragraphs (1) and (2) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together.

(2) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1417. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(I) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor..."
stating, under penalty of perjury, that section 899 does not apply to such disposition because—

(1) the transferor is not a foreign person, or

(2) such reduced amount will not jeopardize the amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 899.

(3) QUALIFIED RESIDENT.—For purposes of this subsection—

(a) DEFINITION.—The term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country—

(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

(ii) 50 percent or more of its income is earned (directly or indirectly) from activities regularly conducted in such foreign country and are not United States citizens or resident aliens.

(b) QUALIFIED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

(1) such entity is not described in subparagraph (A)(i); and

(2) such entity is not a qualified resident of such foreign country if—

(a) such entity is not described in subparagraph (A)(ii); and

(b) such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

(c) TERMINATION OF QUALIFIED RESIDENT Status.—Any qualified resident of a foreign country shall cease to be treated as a qualified resident of such foreign country if—

(1) its interests in such entity are primarily and regularly traded on an established securities market in such country, or

(2) such entity is not treated in such a manner consistent with the purposes of this subsection.

(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person.

(5) QUALIFIED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

(a) such entity is not described in subparagraph (A)(i); and

(b) such entity is not a qualified resident of such foreign country.

(6) TREATY SHOPPING.—No foreign entity that is a qualified resident of a foreign country shall enter into any treaty determined after January 1, 1996, and shall apply to any treaty entered into before, on, or after such date.

(7) GOVERNMENTAL ENTITIES.—The term 'governmental entity' includes any governmental entity which is not described in section 899(c).

(8) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.
Mr. WELLS (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of section 2117(b) of the Social Security Act, as added by section 719(a), insert the following:

"(ii) in subparagraph (C), extend the 12-month period described in paragraph (1) to the close of the first month in which the family ceases to include a child who is a needy child under part A of title IV.

(2) INCLUSION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who is a member of the family and would be entitled to medical assistance because of clause (i) but who may be eligible for assistance under the State plan because the child is described in section 2117(a)(2) if the State discontinues such assistance under such clause until the State has determined that the child is not eligible for assistance under the plan.

(3) NOTIFICATION BEFORE MODIFICATION OR TERMINATION.—No modification or termination of assistance shall be effective under this paragraph until the State has provided the family with a 60-day notice of the grounds for the modification or termination. Such notice shall include (in the case of termination) a description of the circumstances under which the family may reestablish eligibility for medical assistance under the State plan. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.

(4) SCOPE OF COVERAGE.—

(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the 12-month extension period under this subsection shall be applied under part A of title IV of the Social Security Act, as added by section 719(a). Add the following new section:

SEC. 2118. EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.

(a) 12-MONTH EXTENSION.—

(i) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under part A of title IV of the Social Security Act, as added by section 719(a), shall include a card or other evidence of eligibility for medical assistance under such plan approved under this title for the period provided in this section.

(ii) NOTICE OF BENEFITS.—Each State, in the notice of termination of assistance under part A of title IV sent to a family meeting the requirements of paragraph (1), shall include the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be modified or terminated and the reporting requirements under paragraph (5) and shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this section.

(iii) MODIFICATION OR TERMINATION OF EXTENSION.—

(A) MODIFICATION.—Subject to subparagraph (B), if the modification relates to the imposition of cost-sharing or premiums, subject to section 2113, the State may modify the terms of the extension of assistance during the 12-month period described in paragraph (1).

(B) TERMINATION.—...
'(d) CARETAKER RELATIVE DEFINED.--In this section, the term 'caretaker relative' has the meaning given to such term as used in part A of title IV.

At the end of title VII add the following new subtitle:

SUBTITLE X—Home and Community-Based Services for Individuals With Disabilities

SEC. 7300. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(i) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(ii) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing resources to meet the needs of such individuals;

(iii) to provide the opportunity to functionally disabled elderly individuals to continue the recent bipartisan efforts to establish this kind of long-term care reform, and the cornerstone of Wisconsin’s home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the cornerstone of Wisconsin’s long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars and...

(iv) to continue the bipartisan effort to establish this kind of long-term care reform, including the excellent long-term care proposal described in clause (iii) during the 12-month period beginning on October 1, 1995, and ending at that midpoint; and

(v) to succeeded fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated by the estimated percentage change in the index that reflects the projected increases in spending for services under subparagraph (C), during the 12-month period ending at that midpoint, with appropriate adjustments to reflect

(b) SHORT TITLE.—This subtitle may be cited as the ‘Long-Term Care Reform and Deficit Reduction Act of 1995’.

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 7300. Purposes; short title; table of contents.

Sec. 7301. State programs for home and community-based services for individuals with disabilities.

Sec. 7302. State plans.

Sec. 7303. Individuals with disabilities defined.

Sec. 7304. Home and community-based services covered under State plan.

Sec. 7305. Cost sharing.

Sec. 7306. Quality assurance and safeguards.

Sec. 7307. Advisory groups.

Sec. 7308. Waivers.

Sec. 7309. Appropriations: allotments to States.

Sec. 7310. Repeals.

SEC. 7301. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—A State plan that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7504, the plan shall specify—

(b) ELIGIBILITY.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State have an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency in the State to administer the services described in this subtitle.

(d) Sec. 7502. State plans.

(a) PLAN REQUIREMENTS.—In order to be approved under title (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(i) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will...
(iii) shall include services that assist all categories of individuals with disabilities, regardless of age or the nature of their disabling conditions.
(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and
(v) shall ensure that—
(I) the proportion of the population of low-income persons with disabilities in the State that represents individuals with disabilities who are provided home and community-based services (as defined under the State medical plan, or under both, is not less than
(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not require consumer-directed persons as personal assistance services to license, certify, or otherwise require that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the plan shall provide at least three methods to be used to individual or individual's designated representative who may be a family or other organizations which can provide services to receive the service providers who will provide such services.

(G) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(H) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—
(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—
(i) may not limit benefits to services provided by licensed nurses or licensed practical nurses; and
(ii) may not limit benefits to services provided by agencies certified under title XVII of the Social Security Act (42 U.S.C. 1395 et seq.); and
(B) any requirements for participation applying to the service provider.

(I) PROVIDER REIMBURSEMENT.—(A) PAYMENT METHODS.—The plan shall specify methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assures compliance with applicable employment tax and health care coverage provisions.

(b) APPLICABLE RATE.—The plan shall specify the methods and criteria to be used to set payment rates for—
(A) services furnished by agencies certified under the plan; and
(B) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under the plan for employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan to services furnished by those providers who agree to accept the payment under the plan (at the rates established pursuant to subparagraph (A) or (B) for services covered under the plan) as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—
(A) satisfies the conditions described in paragraph (a); and
(B) meets the requirements of subsection (a).

(c) MONITORING.—The Secretary shall annually monitor the implementation of the State plan with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DESIGNATED.

(A) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(i) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d))

(ii) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(ii) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age who—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition, satisfies the Secretary that the individual has severe cognitive impairment or severe mental impairment, or both;

(i) requires hands-on or standby assistance, supervision, or cueing with at least one or more activities of daily living.

(ii) requires on-hand or standby assistance, supervision, or cueing with at least one or more activities of daily living.

(iii) displays symptoms of one or more severe cognitive or mental impairments that is on a list of such problems specified by the Secretary that create a need for supervision to prevent harm to self or others; and

(iii) requires on-hand or standby assistance, supervision, or cueing with at least one or more activities of daily living.

(iv) requires on-hand or standby assistance, supervision, or cueing with at least one or more activities of daily living.

(iv) requires on-hand or standby assistance, supervision, or cueing with at least one or more activities of daily living.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.
Not later than 2 years after the date of enactment of this Act, the Secretary shall make an appropriate determination of the appropriate duration of disability under this paragraph,

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol established by the Secretary) shall be considered to be an individual with disabilities that are comparable in severity, regardless of the categories of individuals with disabilities that are comparable in severity to the criteria under subsection (a). the Secretary shall determine whether an individual is an individual with disabilities that are comparable in severity to the criteria described in paragraph (1) if such an individual meets the criteria in any single category under such paragraph.

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standard established under paragraphs (1), (2), or (3) and is expected to have such a disability or condition and require such services over a period of at least 90 days

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitile may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraph.

(6) DETERMINATION.—

(I) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities that are comparable in severity to the criteria established by the Secretary shall be based on the following factors:

(A) the State shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual.

(B) the determination of whether an individual is an individual with disabilities that are comparable in severity to the criteria established by the Secretary shall be based on the following factors:

(i) the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual.

(ii) the determination of whether an individual is an individual with disabilities that are comparable in severity to the criteria established by the Secretary shall be based on the following factors:

(A) the State electing services under paragraph (1) shall provide for home and community-based services under the State plan to individuals designated representative (as determined according to a protocol established by the Secretary) for the assessment and plan described in section 7504(b) or for other purposes.

(C) the State has determined that there is an insufficient pool of entities willing to provide home and community-based services under the State plan to individuals designated representative (as determined according to a protocol established by the Secretary) for the assessment and plan described in section 7504(b) or for other purposes.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State plan shall include the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES AVAILABLE UNDER STATE PLAN

(A) SPECIFICATION.—

(I) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitile shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals):

(B) any limits with respect to such services:

(i) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or other settings in which the individual resides. The Secretary shall ensure that such services are delivered in a manner that is comparable in severity to the criteria described in paragraph (1) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitile.

(ii) the Secretary may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to provide comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitile residing in the area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(I) IN GENERAL.—An individualized plan of care described under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitile, except that the Secretary may, in such circumstances as the Secretary deems appropriate, direct the State to develop such a plan.

(II) IDENTIFICATION OF INDIVIDUALS.—The Secretary shall provide a plan of care for individuals with disabilities that are comparable in severity to the criteria described in paragraph (1) if such an individual meets the criteria in any single category under such paragraph.

(iii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—The plan of care under this subparagaph shall—

(A) specify which services included under the individual plan will be provided under the State plan under this subtitile:

(B) identify (to the extent possible) how the individual will be provided services that are specified under the plan of care and not provided under the State plan;

(C) specify how the provision of services required in subparagraphs (A) and (B) will be coordinated with the provision of other health care services to the individual; and

(D) be reviewed and updated every 6 months (or for such longer period as the Secretary determines necessary).

(ii) IN GENERAL.—The Secretary shall report to the Congress on its finding under the preceding sentence and shall make such report available to the public.

(iv) IN GENERAL.—The Secretary shall provide for such services under this subtitile, except that the Secretary may, in such circumstances as the Secretary deems appropriate, direct the State to develop such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) shall be developed with the participation of the individual with disabilities and of the individual's designated representative:

(i) in close consultation with the individual (or the individual's designated representative);

(ii) in accordance with the individual (or the individual's designated representative).
(A) IN GENERAL.—The term ‘consumer-directed’ means, with reference to personal assistance services or the provider of such services, services that are determined by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the service.

(B) STATE RESPONSIBILITIES.—A State plan shall—

(1) specify the process to be used to determine the income of an individual with disabilities and any allowable deductions from income.

(C) OF $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied); and

(D) to a rate of 40 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied).

(E) at a rate of 35 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied); and

(F) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied).

(iii) inform the clients about means of obtaining personal assistance services and Shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age or such individuals or the nature of the disabling conditions of such individuals.

(RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including monitoring, train, schedule, and verify services provided) their designated care provider, or

(ii) provide services to assist the clients in maintaining services provided by providers or other personal assistance services.

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers compensation coverage, and act as the Manager of the home care provider.

(a) NO COST SHARING FOR POOREST.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(b) SLIDING SCALE FOR REMAINDER.—For purposes of paragraph (1), the term ‘official poverty level’ applicable to a family of the size involved means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 671(2) of the Community Services Block Grant Act (42 U.S.C. 9801(2)) applicable to a family of the size involved.

(c) Case review of a specified sample of clients and, where appropriate, the competency of such employees will be enforced:

(d) Determination of income for purposes of cost sharing.—The State plan shall specify the process to be used to determine the income of individuals with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income, and (i) a Social Security Administration determination of income based on the income of the individual, and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFE GUARD—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(a) setting the minimum standards for agency provider employees and how such standards will be enforced;

(b) the following areas:

(i) Case review of a specified sample of clients and, where appropriate, the competency of such employees will be enforced:

(ii) Case review of a specified sample of clients and, where appropriate, the competency of such employees will be enforced:

(iii) develop and implement policies and procedures to ensure that the agency plan of care and participant satisfaction with such services;

(iv) establish a process to receive, investigate, and resolve allegations of neglect or abuse;

(v) establishing special training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(vi) establish procedures for alleged violations by any person who is not licensed or otherwise regulated by the State.

(b) Quality assurance.—The State plan shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age or such individuals or the nature of the disabling conditions of such individuals.

(ii) the requirements for agency provider employees who provide direct services under such service.

(iv) the requirements for agency provider employees who provide direct services under such service.

(v) the requirements for agency provider employees who provide direct services under such service.

(vi) the requirements for agency provider employees who provide direct services under such service.

(b) Federal standards.—The State plan shall include the following:

(i) a review of a specified sample of client records.

(ii) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(iii) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(iv) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(v) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(vi) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

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(i) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

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(iii) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(iv) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(v) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

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(iii) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(iv) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(v) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.

(vi) the development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services.
advocacy activities under the plan: plus

20 percent of the amount allotted to the State

shall in no case be more than 95 percent.


duties and their representatives, providers, State officials, and local community imple-

menting agencies. A majority of its members shall be individuals with disabilities and their representatives. Members of the advisory group shall be appointed by the Governor and make available to the public any differences between the group’s recommendations and the plan.

report to the Governor and make available to the public the any differences between the group’s recommendations and the plan.

meet regularly with State officials involved in developing the plan. during the development phase, to review and comment on all aspects of the plan.

participate in the public hearings to help assure that public comments are addressed to the extent practicable.

meet regularly with officials of the designated State agencies to provide advice on all aspects of implementation and evaluation of the plan.

establish a process whereby all residents of the plan shall participate in planning care or changes in care.

be told how to complain to State and local authorities; and

make available to the public the any differences between the group’s recommendations and the plan.

The right to be fully informed orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and except with respect to an individual determined incompetent (as defined in section 1913(e) of the Public Health Service Act) to participate in planning care or changes in care.

(2) Voice grievances with respect to

services, including

(3) The right to confidentiality of personal

services, including

(4) The right to privacy and to have on

purposes directly, or by contract or other arrangement with any public agency or non-profit private organization.

The advisory group shall be selected from those

including individuals with disabilities and their representatives, providers, Federal and State officials.

meet in developing the plan: during the development phase, to review and comment on all aspects of the plan.

report to the Governor and make available to the public the any differences between the group’s recommendations and the plan.

meet regularly with officials of the designated State agencies to provide advice on all aspects of implementation and evaluation of the plan.

(2) Confidentiality.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning appli-

(3) Regulations.—Not later than January 1, 1997, the Secretary shall promulgate regu-

(4) Procedures.—The State plan shall provide that in furnishing home and community-based services matching percent-

(5) Selection of Members.—Each State shall establish a process whereby all residents of the plan shall participate in plan-

(6) Purpose.—Subject to paragraphs (1) and (2) of this subsection, the States shall provide that in furnishing home and community-based services matching percent-

(7) States under this section. The States shall not use amounts determined under this subtitle for purposes other than the State plan provided for under section 1115 of the Social Security Act. Amounts designated under this subsection shall be available to the States to the extent that they apply to payments to States under section 1115 of the Social Security Act. The States shall not use amounts determined under this subsection for purposes other than the State plan provided for under section 1115 of the Social Security Act. Amounts designated under this subsection shall be available to the States to the extent that they apply to payments to States under section 1115 of the Social Security Act. The States shall not use amounts determined under this subsection for purposes other than the State plan provided for under section 1115 of the Social Security Act. Amounts designated under this subsection shall be available to the States to the extent that they apply to payments to States under section 1115 of the Social Security Act. The States shall not use amounts determined under this subsection for purposes other than the State plan provided for under section 1115 of the Social Security Act. Amounts designated under this subsection shall be available to the States to the extent that they apply to payments to States under section 1115 of the Social Security Act. The States shall not use amounts determined under this subsection for purposes other than the State plan provided for under section 1115 of the Social Security Act. Amounts designated under this
for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection. The preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for all urban consumers for the fiscal year of the previous fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals receiving assistance under this title and the CPI increase factor for the fiscal year of the previous fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the value of the CPI for the 12-month period ending with the preceding fiscal year to the value of the CPI for the fiscal year; and

(B) 100.

(4) DISABILITY POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) in the disabled population of the United States (as determined by the Secretary) that was reported to the Secretary under section 7102(a)(2) of such Act.

(5) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle and with a population of the United States (as determined by the Secretary) that is an amount equal to the total estimated amount for such fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State an amount equal to one-half of one percent of the State's total allotment under paragraph (1) for such fiscal year.

(6) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1222(a) of the Social Security Act.

(7) REALLOCATIONS.—Any amounts allotted to States under this subsection for a fiscal year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(8) SAVINGS DUE TO MEDICAID OFFSETS.—In no case may be any amount by which the Federal offsets and reductions in such State's medicaid plan for such fiscal year exceed the product of—

(A) the percentage of the total number of individuals with disabilities living under 100% of federal poverty level in any age group in the State; and

(B) the estimated percentage change in such index.

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State; (B) the percent of the Federal funds, community-based services to individuals with disabilities in the State; and 

(C) the number of individuals receiving assistance with incomes at or below 150 percent of the official poverty line (as described in section 7102(a)(2)) of all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as the Secretary determines appropriate.

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1222(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a fiscal year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—In no case may be any amount by which the Federal offsets and reductions in such State's medicaid plan for such fiscal year exceed the product of—

(A) the percentage of the total number of individuals with disabilities living under 100% of federal poverty level in any age group in the State; and

(B) the estimated percentage change in such index.

(6) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1222(a) of the Social Security Act.

(7) REALLOCATIONS.—Any amounts allotted to States under this subsection for a fiscal year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(8) SAVINGS DUE TO MEDICAID OFFSETS.—In no case may be any amount by which the Federal offsets and reductions in such State's medicaid plan for such fiscal year exceed the product of—

(A) the percentage of the total number of individuals with disabilities living under 100% of federal poverty level in any age group in the State; and

(B) the estimated percentage change in such index.

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

Section 12111 and chapter I of subtitle C of title XII of this Act are hereby repealed.

SEC. 123. It is the sense of the Senate that the Congress shall define a basic health benefit package for pregnant women, all children up to age 12 years, and individuals with disabilities living under 100% of federal poverty level in order to ensure that these individuals are entitled to a federal guarantee of health care services for a meaningful set of benefits.

HARKIN (AND OTHERS) AMENDMENT NO. 3020

Mr. HARKIN (for himself, Mr. DORIAN, Mr. WELLSTONE, Mr. DASCHLE, Mr. HEFLIN, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra. as follows:

(a) In Title I strike Subtitles A. B. and C. and insert the following:

TITLE I.—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SECTION 101. SHORT TITLE.

This title may be cited as the "Farm Security Act of 1995."
(B) LIMITATION.—The quantity determined under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

(1) the marketing loan rate for the crop of wheat; or

(2) the average domestic price for wheat for the crop for the calendar year in which the crop is harvested: and

(ii) the level at which a loan may be repaid under the subsection.

(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the Secretary is fair and reasonable in relation to the marketing loan rate for the crop under paragraph (A)(ii):

(1) the date the producers last beneficial interest in the crop; or

(2) the end of the marketing year for the crop.

(A) AMOUNT.—The Secretary shall make available to producers on a farm a crop loan for the crop at a level that is the lesser of—

(i) the loan level determined for the crop; or

(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

(i) a formula to determine the prevailing domestic market price for each covered commodity; and

(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

(2) LOAN DEFICIENCY PAYMENTS.—

(A) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

(B) COMMISSIONER.—A payment under this subsection shall be computed by multiplying—

(i) the loan payment rate; by

(ii) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

(3) LOAN PAYMENT RATE.—

(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

(ii) the level at which a loan may be repaid under the subsection.

(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the Secretary is fair and reasonable in relation to the date not be later than the earlier of—

(i) the date the producers last beneficial interest in the crop; or

(ii) the end of the marketing year for the crop.

(4) APPLICATION.—Producers on a farm may apply for a loan for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

(e) PROGRAM COST LIMITATION.—

(i) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2001 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the costs of providing marketing loans and loan deficiency payments do not exceed the amount.

(ii) TERMINATION.—The Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year.

(2) TERMINATION.—The Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year.

(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary to, the 5-year average price for the commodity.

(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for a crop, the Secretary shall make an announcement of the program not later than—

(A) in the case of wheat, June 1 of the calendar year in which the crop is harvested; and

(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested; and

(ii) the level at which a loan may be repaid under the subsection.

(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts and at such rates as the Secretary determines are equitable in relation to the seriousness of the failure.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 990g(h)) (relating to assignment of payments) shall apply to payments under this section.

(7) FEED GRAINS.—The term 'feed grains' means corn. grain sorghum. barley. oats. rye. or as designated by the Secretary.

(8) OILSEEDS.—The term 'oilseed' means a crop of soybeans. sunflower seed. rapeseed. canola. safflower. flaxseed. mustard seed. or, as designated by the Secretary. other oilseeds.

(3) LIMITATION—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary to, the 5-year average price for the commodity.

(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for a crop, the Secretary shall make an announcement of the program not later than—

(A) in the case of wheat, June 1 of the calendar year in which the crop is harvested; and

(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested; and

(ii) the level at which a loan may be repaid under the subsection.

(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts and at such rates as the Secretary determines are equitable in relation to the seriousness of the failure.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 990g(h)) (relating to assignment of payments) shall apply to payments under this section.

(7) FEED GRAINS.—The term 'feed grains' means corn. grain sorghum. barley. oats. rye. or as designated by the Secretary.

(8) OILSEEDS.—The term 'oilseed' means a crop of soybeans. sunflower seed. rapeseed. canola. safflower. flaxseed. mustard seed. or, as designated by the Secretary. other oilseeds.

(3) LIMITATION—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary to, the 5-year average price for the commodity.

(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for a crop, the Secretary shall make an announcement of the program not later than—

(A) in the case of wheat, June 1 of the calendar year in which the crop is harvested; and

(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested; and

(ii) the level at which a loan may be repaid under the subsection.

(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts and at such rates as the Secretary determines are equitable in relation to the seriousness of the failure.

(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 990g(h)) (relating to assignment of payments) shall apply to payments under this section.

(7) FEED GRAINS.—The term 'feed grains' means corn. grain sorghum. barley. oats. rye. or as designated by the Secretary.

(8) OILSEEDS.—The term 'oilseed' means a crop of soybeans. sunflower seed. rapeseed. canola. safflower. flaxseed. mustard seed. or, as designated by the Secretary. other oilseeds.
SEC. 1103. RICE PROGRAM.

(b) SUPPORT RATES FOR PERSONS.—Section 108B(b)(4) of the Agricultural Act of 1949 (7 U.S.C. 1465c(4)) is amended—

(1) by striking paragraphs (1)-(3) and inserting—

"(1) IN GENERAL.—Subject to subsection (a)(1), (a)(3), and (f), the Secretary shall obtain from each processor that sells or otherwise disposes of sugar beets or sugar beets products a letter of assurance that the sugar derived from the sugar beets will be used solely for the production of sugar for domestic edible use, as determined by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan. Any recourse loan available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid by the producer during the fiscal year shall be converted into a nonrecourse loan.

(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets which would provide for adequate carryover stocks.

SEC. 1105. DAIRY PROGRAM.

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "support price" and inserting "price support":

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of domestically grown sugar beets through loans at the support price for each of the 1997 crop of domestically grown sugar beets.
receives a loan under this section such assur-
ances as the Secretary considers adequate 
that, if the Secretary is required under para-
graph (A) to extend a loan to a borrower, the loan 
will be nonrecourse and the borrower will not 
be liable to the Secretary for a civil penalty of 
not more than an amount determined by multi-
ing—
(A) the quantity of sugar involved in the 
violation; by
(B) the loan level for the applicable crop year of sugarcane or sugar beets from which the 
sugar is produced.

For the purposes of this paragraph, refined 
sugar shall be treated as produced from 
sugar beets.

(6) ENFORCEMENT.—The Secretary may 
enforce this subsection in the courts of the 
United States.

(i) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO 
REPORT.—A sugarcane processor, cane sugar 
refiner, and sugar beet processor shall fur-
nish the Secretary, on a monthly basis, such 
information as the Secretary may require to 
administer sugar programs, including the quan-
tity of purchases of sugarcane, sugar beets, and 
sugar, and sugar production, importation, distri-
bution, and stock levels of sugar.

(2) DUTY OF PRODUCERS TO REPORT.—To ef-
ciently administer the programs under this 
section, the Secretary may require a producer of 
sugarcane or sugar beets to report, in the manner 
prescribed by the Secretary, the producer's produc-
tion, sugar yields and acres planted to sugarcane 
or sugar beets, respectively.

(3) PENALTY.—Any person willfully failing 
or refusing to furnish the information, or furnish-
ing willfully any false information, 
required under this subsection shall be 
subject to a civil penalty of not more than 
$10,000 for each violation.

(4) MONTHLY REPORTS.—Taking into con-
sideration the information received under para-
graphs (1) and (2) of this subsection, the Sec-
tary shall publish a monthly basis composite data on produc-
tion, imports, distribution, and stock levels of sugar.

(m) SUGAR ESTIMATES.—

(1) DOMESTIC REQUIREMENTS.—Before the 
beginning of each fiscal year, the Secretary 
shall estimate the domestic sugar require-
ment of the United States in an amount that 
is equal to the total estimated disappearance, minus the quantity of sugar that will 
be available through the following means:

(2) QUARTERLY REESTIMATES.—The Sec-
tary shall make quarterly reestimates of 
sugar consumption, stocks, production, and 
imports for each fiscal year, starting 3 months after the beginning of each of the second 
through fourth quarters of the fiscal year.

(n) CROPS—This section shall be effective 
only for the 1996 through 2002 crops of sugarcane and sugar beets.

(b) MARKETING QUOTAS.—Part VII of sub-
title B of title III of the Agricultural Adjust-
ment Act of 1938 (7 U.S.C. 1359a et seq.) is 
repealed.

SEC. 1107. SHEEP INDUSTRY TRANSITION PRO-
GRAM—

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at 
the end the following:

"SEC. 119. SHEEP INDUSTRY TRANSITION PRO-
GRAM.—

(a) LOSS.—

(1) IN GENERAL.—The Secretary shall, on 
presentation of warehouse receipts or other 
acceptable evidence of title as determined by 
the Secretary, make available for each of the 
1996 through 1999 marketing years recourse 
loans for wool at a loan level, per pound, 
that is not less than the smaller of—
(A) the average price (weighted by mar-
tex quality) for wool at the average location in the United States as 
quoted during the 5-marketing year period preceding the marketing year 
for which the loan is made; or

(B) the loan level determined under paragraph (b)(1) of this section, 
announced, excluding the year in which the average price was the highest and the year in 
which the average price was the lowest in the period; or

(B) 90 percent of the average price for wool sold under paragraph (b)(1) of this section, 
in which the loan level is announced, as deter-
mained by the Secretary.

(2) ADJUSTMENT FOR LOWER LOAN LEVEL.—

(A) LIMITATION ON DECREASE IN LOAN 
LEVEL.—The loan level for any marketing year determined under paragraph (1) may 
not be reduced by more than 5 percent from the level determined for the preceding mar-
ket year, and may not be reduced below 50 cents per pound.

(B) LIMITATION ON INCREASE IN LOAN 
LEVEL.—If for any marketing year the aver-
age projected price determined under para-
graph (1)(A) of this section is below the United States market price determined under para-
graph (i)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the av-
average United States market price deter-
mained under paragraph (i)(A).

(3) ADJUSTMENT FOR UPPERLoAN LEVEL.—

(A) IN GENERAL.—Notwithstanding sub-
paragraphs (A) and (B), the Secretary may 
adjust the loan level of a loan made under 
this section with respect to any quality of 
wool to more accurately reflect the quality of 
the wool, as determined by the Secretary.

(4) LIMITATION ON ADDITIONAL EXTENSIONS.—

The Secretary may not make additional 
extensions for more than 1 year for wool pro-
duced on a farm, the Secretary shall establish a grading system for wool, 
based on micron diameter of the fibers in the wool.

(iv) FEES.—The Secretary may charge 
each person that requests a grade a quanti-
ty of wool a fee to offset the cost of testing 
and establishing a grading for the wool.

(v) TESTING FACILITIES.—To the extent 
practicable, the Secretary shall accept local, 
private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

(4) ANNOUNCEMENT OF LOAN LEVEL.—The 
loan level for any marketing year of wool 
shall be determined and announced by the 
Secretary not later than December 1 of the 
calendar year preceding the marketing year 
for which the loan is to be effective or, in the 
case of the 1996 marketing year, as soon as is 
promptly after December 1, 1995.

(4) TERMS OF LOAN.—

(A) IN GENERAL.—Receivable loans provided for in this section may be made for an initial 
period of 1 year, extendible for an additional term of 8 months.

(B) EXTENSIONS.—Except as provided in sub-
paragraph (B)(1), recourse loans provided for in this section shall, on request of the pro-
ducer during the 9th month of the loan pe-
riod for the wool, be made available for an 
additional term of 8 months.

(C) LIMITATION.—A request to extend the 
loan period shall not be approved in any 
year in which the average price of the 
base quality of wool, as determined by the Sec-
tary, in the designated markets for the 
preceding month exceeded 130 percent of the 
average price of the base quality of wool in 
the designated United States markets for the 
preceding 36-month period.

(5) MARKETING LOAN PROVISIONS.—If the 
Secretary determines that the prevailing 
world market price for wool (adjusted to United 
States quality and location) is below 
the world market price for wool that is 
competitive, the Secretary shall permit a 
producer to repay a loan made for any mar-
keting year at the loan level determined 
under paragraphs (1)(A) and (B).

(A) the loan level determined for the mar-
ket year; or

(B) the higher of—

(1) the loan level determined for the mar-
ket year multiplied by 70 percent; or

(2) the loan level determined for the preced-
ing 36-month period.

(6) PENALTIES.—If any person fails to 
comply with an assessment required by this 
section, it shall be liable to the Secretary 
for a civil penalty of not more than an amount determined by multi-
ing by the Secretary.

(7) COMMODITY CREDIT CORPORATION.—

The Secretary shall use the funds, fac-
cilities, and authorities of the Commodity 
Credit Corporation to carry out this section.

(8) MARKETING ASSESSMENTS.—

(1) IN GENERAL.—Assessments shall be col-
glected in accordance with this subsection with respect to all sugar marketed within 
the United States during the years 1996 through 2002.

(2) BEET SUGAR.—The first seller of beet 
sugar produced from domestic sugar beets or 
domestic sugar beets molasses shall remit to the 
Commodity Credit Corporation a non-
refundable marketing assessment in an 
amount equal to 1.0844 percent of the loan 
level established under subsection (d) per pound of sugar marketed.

(3) CANE SUGAR.—The first seller of raw 
cane sugar produced from domestic sugar 
cane or domestic sugar cane molasses shall remit to the Commodity Credit Corporation a non-
refundable marketing assessment in an 
amount equal to 1.0844 percent of the loan 
level established under subsection (d) per pound of sugar marketed.

(4) COLLECTION.—

(1) IN GENERAL.—The Secretary shall, on 
presentation of warehouse receipts or other 
acceptable evidence of title as determined by 
the Secretary, make available for each of the 
1996 through 1999 marketing years recourse 
loans for cane sugar at a loan level, per pound, 
that is not less than the smaller of—
(A) the average price (weighted by mar-
tex quality) for cane sugar at the average location in the United States as 
quoted during the 5-marketing year period preceding the marketing year 
for which the loan is made; or

(B) the loan level determined under paragraph (b)(1) of this section, 
announced, excluding the year in which the average price was the highest and the year in 
which the average price was the lowest in the period; or

(2) PENALTIES.—If any person fails to 
remit an assessment required by this 
subsection, it shall be liable to the Secretary for a civil penalty of not more than an amount determined by multi-
ing by the Secretary.
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SEC. 1108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS—Sections 796 through 797 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 marketing years for wheat.

(b) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) or (d) that exceed $75,000 during any marketing year.

(c) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) or (d) that exceed $50,000 during any marketing year.

(2) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be applicable only for the 1996 through 1999 marketing years for wheat.

SEC. 1109. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) BLACK SUGAR BEETS.


(b) RECOURSE LOAN PROGRAM FOR BLACK SUGAR BEETS.—Section 349e of the Agricultural Adjustment Act of 1949 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of sugar beets.

(c) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.—Sections 342, 343, 344, 345, 346, and 347 of the Agricultural Adjustment Act of 1949 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of sugar beets.

SEC. 1110. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) HOGS.

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS—Sections 801 through 804 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of hogs.

(b) RECOURSE LOAN PROGRAM FOR HOGS.—Section 805 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of hogs.

(c) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.—Sections 801 through 804 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of hogs.

SEC. 1111. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) PEANUTS.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS—Sections 358a (7 U.S.C. 1358a) and 358b (7 U.S.C. 1358b) shall not be applicable to the 1996 through 2002 crops of peanuts.

(b) RECOURSE LOAN PROGRAM FOR PEANUTS.—Section 359 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of peanuts.

(c) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.—Sections 358a (7 U.S.C. 1358a) and 358b (7 U.S.C. 1358b) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 1112. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) COTTON.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS—Sections 365 through 375 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of cotton.

(b) RECOURSE LOAN PROGRAM FOR COTTON.—Section 376 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of cotton.

(c) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.—Sections 365 through 375 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of cotton.

SEC. 1113. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) LAURINUS.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS—Sections 380 through 386 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of laurinuses.

(b) RECOURSE LOAN PROGRAM FOR LAURINUS.—Section 387 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of laurinuses.

(c) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.—Sections 379 through 386 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1330 and 1331) shall not be applicable to the 1996 through 2002 crops of laurinuses.
2 REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before ‘‘all brokers and dealers in peanuts’’ the following: ‘‘the Secretary, in making contracts for the production of peanuts.’’

3 SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 111 of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ‘‘1995’’ and inserting ‘‘2002.’’

Sec. 1109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS:

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 204(b) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ‘‘1995’’ and inserting ‘‘2002.’’

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ‘‘1995’’ and inserting ‘‘2002.’’

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ‘‘1995’’ and inserting ‘‘2002.’’

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 490(b)(3) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ‘‘1995’’ and inserting ‘‘2002.’’

(e) CROP ACREAGE AND BASE SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1416 et seq.) is amended—

(i) in subsections (a)(1) and (c), by striking ‘‘1995’’ each place it appears and inserting ‘‘2002’’; and

(ii) in subsection (b), by striking ‘‘1995’’ and inserting ‘‘2002’’.

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking ‘‘1995’’ each place it appears and inserting ‘‘2002’’.

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking ‘‘1995’’ each place it appears and inserting ‘‘2002’’.

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program established under section 1154(b)(1)(A) of the Food and Agriculture Act of 1977 (7 U.S.C. 1345(b)(1)(A)) is amended to read as follows:

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(e) of the Food Security Wheat Reserve Act of 1985 (7 U.S.C. 1706e-1(e)) is amended by striking ‘‘1995’’ each place it appears and inserting ‘‘2002’’.

Sec. 1110. EFFECTIVE DATE.

(a) IN GENERAL.—Section 1110 of the Food Security Act of 1985 (16 U.S.C. 2338 et seq.) is amended to read as follows:

(b) EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

Sec. 1238A. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) ESTABLISHMENT.—

(i) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

(b) TECHNICAL ASSISTANCE.—

(i) TECHNICAL ASSISTANCE.—The term ‘‘technical assistance’’ means assistance, planning, or other guidance necessary to help an operator implement a land management practice.

(ii) TEACHNICAL ASSISTANCE.—The term ‘‘technical assistance’’ includes training, technical assistance for the construction, planning, or establishment of a soil or water conservation practice, and any other assistance that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

(c) ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Sec. 1238B. CONSERVATION PRIORITY AREAS.

(a) IN GENERAL.—The Secretary shall allocate funds under this chapter for the purpose of providing technical assistance and cost-sharing payments for eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter I or I of the Agricultural Act of 1949 (7 U.S.C. 1423(c)).

(b) TECHNICAL ASSISTANCE.—The term ‘‘technical assistance’’ means assistance, planning, or other guidance necessary to help an operator implement a land management practice.

(c) ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Sec. 1238C. CONSERVATION PRIORITY AREAS.

(a) IN GENERAL.—The Secretary shall allocate funds under this chapter for the purpose of providing technical assistance and cost-sharing payments for eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter I or I of the Agricultural Act of 1949 (7 U.S.C. 1423(c)).

(b) TECHNICAL ASSISTANCE.—The term ‘‘technical assistance’’ means assistance, planning, or other guidance necessary to help an operator implement a land management practice.

(c) ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Sec. 1238D. CONSERVATION PRIORITY AREAS.

(a) IN GENERAL.—The Secretary shall allocate funds under this chapter for the purpose of providing technical assistance and cost-sharing payments for eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter I or I of the Agricultural Act of 1949 (7 U.S.C. 1423(c)).

(b) TECHNICAL ASSISTANCE.—The term ‘‘technical assistance’’ means assistance, planning, or other guidance necessary to help an operator implement a land management practice.

(c) ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.
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South Dakota, and Minnesota, Rainwater Basin (located in Nebraska), and other areas the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a)."

"(b) Strike section 12161 and 12162."

WELLSTONE (AND LIEBERMAN) AMENDMENT NO. 3021

Mr. WELLSTONE (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 1357, supra as follows:

"SEC. 110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS."

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary is authorized to acquire lease-purchase such properties as are described in subsection (b), if—"

"(1) the Secretary of State, and"

"(2) the Director of the Office of Management and Budget, certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—"

"(1) to acquire property for Department of State personnel stationed abroad and for the purchase of other facilities, in locations in which the United States has a diplomatic mission; and"

"(2) during fiscal years 1999 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for the lease-purchase arrangement set forth in this subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (related to the Acquisition and Maintenance of Buildings Abroad) account.

BRADLEY AMENDMENT NO. 3023

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra as follows:

"Strike sections 5400 and 5401."

LEAHY AMENDMENT NO 3024

Mr. EXON (for Mr. LEAHY) proposed an amendment to the bill S. 1357, supra as follows:

"On page 103, line 6, strike "(D)" and insert the following:"

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

"On page 130, strike line 14 and insert the following:"

"SEC. 1420. PROVIDING FUNDING FOR AMERICA SAMOA.

"Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—"

"(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program established under P.L. 96-597 during that fiscal year."

SEC. 1431. EFFECTIVE DATE.

"On page 152, line 7, strike "December 31, 1996" and insert "December 1, 1995"."

BROWN AMENDMENT NO. 3022

Mr. DOMENICI (for Mr. BROWN) proposed an amendment to the bill S. 1357, supra as follows:

"On page 13, strike line 6 through 12 and insert the following:"

"SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY."

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—"

"(1) the Secretary of State, and"

"(2) the Director of the Office of Management and Budget, certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—"

"(1) to acquire property for Department of State personnel stationed abroad and for the purchase of other facilities, in locations in which the United States has a diplomatic mission; and"

"(2) during fiscal years 1999 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for the lease-purchase arrangement set forth in this subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (related to the Acquisition and Maintenance of Buildings Abroad) account.

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BUMPERS (AND OTHERS) AMENDMENT NO. 302

Mr. BUMPERS (for himself, Mr. BRADLEY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra: as follows:

Strike pages 360-382 and insert the following in lieu thereof: Property Act of 1940 (50 U.S.C. App. sec. 623). In order to avoid market disruptions, the Secretary shall consult with appropriate Federal agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under subsection (b), any remaining proceeds shall be deposited to the account in the Treasury for proceeds of receipts. There shall be established a new receipt account in the Treasury to receive proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act of 1975, the Secretary of Energy shall draw down and sell 7 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve facilities authorized by section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed. Provided, that such sale shall be made to the highest bidder, subject to any other Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year that access to such mining claim or site is located pursuant to the general mining laws. Where located before or after the enactment of this Subtitle, shall pay to the Secretary on or before the date of location of such mining claim or site a location fee of 25.00 per claim. No maintenance fee shall be required for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or any other State or Federal law subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certificate required by this subsection.

(b) RELATED PERSONS.—As used in section 5702(b) of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 2814 (a) is hereby repealed. Provided, that such sale shall be made to the highest bidder, subject to any other Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year that access to such mining claim or site is located pursuant to the general mining laws. Where located before or after the enactment of this Subtitle, shall pay to the Secretary on or before the date of location of such mining claim or site a location fee of 25.00 per claim. No maintenance fee shall be required for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or any other State or Federal law subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certificate required by this subsection.

(c) RELATED PERSONS.—As used in section 5702(b) of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 2814 (a) is hereby repealed. Provided, that such sale shall be made to the highest bidder, subject to any other Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year that access to such mining claim or site is located pursuant to the general mining laws. Where located before or after the enactment of this Subtitle, shall pay to the Secretary on or before the date of location of such mining claim or site a location fee of 25.00 per claim. No maintenance fee shall be required for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or any other State or Federal law subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certificate required by this subsection.

(c) RELATED PERSONS.—As used in section 5702(b) of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 2814 (a) is hereby repealed. Provided, that such sale shall be made to the highest bidder, subject to any other Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year that access to such mining claim or site is located pursuant to the general mining laws. Where located before or after the enactment of this Subtitle, shall pay to the Secretary on or before the date of location of such mining claim or site a location fee of 25.00 per claim. No maintenance fee shall be required for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or any other State or Federal law subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certificate required by this subsection.
SEC. 5704. PATENTS.
(a) In General.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this Subtitle shall be subject only—
(1) upon payment by the owner of the claim of a royalty in the manner prescribed for such royalty in section 5703, on the value of minerals extracted from the land in the United States exclusive of and without regard to the minerals already in the possession of the land in the use or the use of the land for mineral activities: and
(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) Right of Reentry.—
(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, the Secretary shall be subject to the right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mining activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(c) Patent Transition.—Notwithstanding any provision of law, the giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate.

(d) Effective Date.—
(A) In General.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(B) Time for Payment.—Any royalty payable under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Preservation Association, may spend amounts paid to the Association under subsection (a), the Association may spend—
(i) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;
(ii) not more than $250,000 to acquire sites at battlefields at Perryville, Kentucky;
(iii) not more than $250,000 to acquire sites at Resaca, Georgia;
(iv) not more than $250,000 to acquire sites at Glendale, Virginia; and
(v) not more than $250,000 to acquire sites at Fernley, Nevada;

(B) Effective Date.—
(A) In General.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(C) Time for Payment.—Any royalty payable under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Preservation Association, may spend amounts paid to the Association under subsection (a), the Association may spend—
(i) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;
(ii) not more than $250,000 to acquire sites at battlefields at Perryville, Kentucky;
(iii) not more than $250,000 to acquire sites at Resaca, Georgia;
(iv) not more than $250,000 to acquire sites at Glendale, Virginia; and
(v) not more than $250,000 to acquire sites at Fernley, Nevada;

MR. BUMPERS (for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEATHY) proposed an amendment to the bill S. 1357, supra, as follows:
At the end of the bill add the following new title:
"TITLE XIII—BUDGET PROCESS"

SEC. 10942. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Mr. BIDEN proposed an amendment to the bill S. 1357, supra, as follows:
On page 1652, between lines 2 and 3, insert the following:
SEC. 10942. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:
October 27, 1995

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DORGAN (AND OTHERS) AMENDMENT NO. 3033

Mr. DORGAN (for himself, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill S. 1357, supra, as follows:

SEC. 1230 AMENDMENT TO TIME EXTENSION PROVISIONS FOR CLOTHES ROYAL HUNTING HOMES
(a) IN GENERAL.—If the executor elects the benefits of this chapter at such time and in such manner as the Secretary shall by regulation prescribe, then for purposes of paragraph (1) of section 162(d) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(1) IN GENERAL.—If the executor elects the benefits of this chapter at such time and in such manner as the Secretary shall by regulation prescribe, then for purposes of paragraph (1) of section 162(d) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(1) IN GENERAL.—If the executor elects the benefits of this chapter at such time and in such manner as the Secretary shall by regulation prescribe, then for purposes of paragraph (1) of section 162(d) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

One page 1635, beginning on line 10, strike all through page 1640, line 9, and insert the following:

SEC. 1230A OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.
(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2) within the time prescribed therefor but)

"(A) the notice of election, as filed, does not contain all required information;

"(B) such persons are not included on the agreement referred to in paragraph (2); or

"(C) are not included on the agreement referred to in paragraph (2) or are not readily tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.
amount taken into account as the net capital gain under subsection (a) shall not exceed 28 percent of the amount of the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 4, 1996.

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Subsection (b) of section 170(e) is amended to read as follows:

"(b) COORDINATION —If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

(1) the portion of the net capital gain referred to in clause (ii) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

(2) so much of the gain described in subsection (I) which is not taken into account under section 1202 and which the taxpayer elects to take into account under this clause.

(2) In Subsection.—Subsection (b) of section 163(d)(4)(B) is amended to read as follows:

"(B) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).

(c) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended—

(1) in paragraph (1) by substituting 'section 1202' for 'section 1201';

(2) in paragraph (15) the following new paragraph:

"(18) the portion of the net capital gain referred to in clause (ii) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

(3) in subsection (5), clause '(II)' is amended to read as follows:

"(II) the adjusted taxable income for such taxable year under paragraph (1) of section 1202, plus

(4) in subsection (7), clause '(D)' is amended to read as follows:

"(D) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).

(d) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1)(I) (relating to limitations on deductions of individuals) is amended by adding at the end the following new paragraph:

"(3) for the purposes of subparagraphs (A), (B), and (D), there is allowed as an expense in computing taxable income the amount as the excess of the highest rate of United States over net capital gain, as the case may be, in the taxable year on or after October 4, 1995, shall not apply.

(e) TREATMENT OF COLLECTIBLES.—In the case of any gain from the sale or exchange of a collectible, there is allowed as an expense in computing taxable income the amount as the excess of the highest rate of United States over net capital gain, as the case may be, in the taxable year on or after October 4, 1995, shall not apply.

(f) SPECIAL RULE FOR COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period of the asset held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

(B) TREATMENT OF CERTAIN SALES OF INTERESTS IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to the excess of the value of the collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 1222 shall apply for purposes of the preceding sentence.

(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means a capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by inserting after that paragraph the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to capital gains on collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(3) TECHNICAL AND CONFORMING CHANGES.—

(A) Clause (iii) of section 163(d)(4)(B) is amended to read as follows:

"(iii) the portion of the net capital gain referred to in clause (ii) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than one year or gain described in section 1202(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1202 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed shall be subject to section 681 (relating to unrelated business income).

(5) The last sentence of section 452(a)(3)(C) is amended by striking all that follows 'long-term capital gain.' and inserting 'section 904(b)(3)(D)) for the taxable year,' and

(6) Clause (v) of section 933(b)(3)(D) is amended—

(i) by striking 'if there is a capital gain rate differential (as defined in section 933(b)(3)(F)) for the taxable year' and

(ii) by striking 'section 933(b)(3)(E)' and inserting 'section 933(b)(3)(D).'

(7) The last sentence of section 1044(d) is amended by striking '1202' and inserting '1203'.

(8) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.

(9) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.

(10) The adjusted taxable income for such taxable year and

(11) The adjusted taxable income for such taxable year.

(12) For purposes of determining the excess described in paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.
of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.

(12) Paragraph (1) of section 1402(i) is amended by inserting "and the exclusion provided by section 1202 shall not apply prior to the end of the year if, before the end of the year, a return is filed under the provisions of section 6038(a)(6)(A) and within 180 days after the end of the taxable year of the taxpayer to whom the return is required to be filed under section 6038(a)(6)(A) and a statement under section 6038(a)(6)(A) is filed by the taxpayer.".

(13) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (28 percent in the case of a corporation)" and inserting "19.8 percent (28 percent in the case of a corporation) and inserting "19.8 percent (28 percent in the case of a corporation)";

(B) and in paragraph (2) by striking "35 percent" and inserting "19.8 percent".

(14) The second sentence of section 1901 is amended by striking "asbestos (if paragraph (1)(B) of section 1901 is amended by inserting "other than lead, mercury or uranium" in subparagraph (A) and by striking "asbestos", "lead", and "mercury" in subparagraph (B)."

(15) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

"(l) Cross Reference.—For treatment of eligible gain not excluded under subsection (a), see section 1202.

(1) Clerical Amendments.—The table of sections for part I of subchapter P of chapter 38 of subtitle A of title 26 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(2) Effective Date.—(i) In General.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) Collectibles.—The amendments made by subsection (b) shall apply to sales and exchanges after October 13, 1995.

(3) Use of Long-Term Losses.—The amendments made by subsection (f)(1)(B) shall apply to taxable years beginning after December 31, 1995.

(4) Withholding.—The amendment made by subsection (f)(13) shall apply only to amounts paid after the date of the enactment of this Act.

On page 1703, between lines 17 and 18, insert—

"(C) Citizens Becoming Covered Expatriates To Be Taxed As Residents Upon Return To United States.—Paragraph (3) of section 7701(b) is amended by adding at the end the following new subparagraph:

"(E) Special Rule for Covered Expatriates.—In this paragraph and any other provision of this paragraph, in the case of an individual who is treated as a covered expatriate under section 7701(b), for purposes of section 7701(b), such individual shall be treated as meeting the substantial presence test of this paragraph with respect to any calendar year if the individual is present in the United States for more than 330 days during the calendar year."

SEC. 1201. SENSE OF THE SENATE.

It is the sense of the Senate that (a) the Senate conference agreement not to include in the House version of this chapter eliminating the tax loophole for billionaires and other wealthy individuals who renounce their United States citizenship in order to avoid their fair share of United States taxes; and (b) the Senate reaffirms its commitment to eliminate this tax loophole.

FEINGOLD (AND OTHERS) AMENDMENT NO. 3034

Mr. FEINGOLD (for himself, Mr. STEVENS, and Mr. BREAUX) proposed an amendment to the bill S. 1357, supra: as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

"(a) General Rule.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A) and

(B) by striking "asbestos", "lead", and "mercury" in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b)(3) is amended by striking "asbestos" if paragraph (1)(B) does not apply.

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B) and by striking the period at the end of subparagraph (C) and inserting ". and" and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos.

(b) Conforming Amendments.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead" and "uranium".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. SIMON (for himself, Mr. STEVENS, and Mr. BREAUX) proposed an amendment to the bill S. 1357, supra: as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

WELLSTONE AMENDMENT NO. 3036

Mr. WELLSTONE proposed an amendment to the bill S. 1357, supra: as follows:

Strike sections 1930, 5931, and 5932.

D'AMATO AMENDMENT NO. 3037

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra:

On page 187, line 3: and on page 187, line 22, strike "51/2" and insert "10."
(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new paragraph: "(e) For purposes of this section, the ‘routine service costs’ of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services and services attributable to payment amounts under section 188A."

(b) CONFORMING AMENDMENT—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-Routine SERVICES OF SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

"SEC. 7033. COST-EFFECTIVE MANAGEMENT OF COVERED NON-Routine SERVICES OF SKILLED NURSING FACILITIES.

(a) Definitions.—For purposes of this section:

(1) COVERED NON-Routine SERVICES.—The term ‘covered non-routine services’ means post-acute extended care services consisting of any of the following:

(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

(B) Pharmacare.

(C) Complex medical equipment.

(D) Laboratory and pathology services and solutions (including enteral and parenteral nutrients, supplies, and equipment).

(E) Radiation therapy.

(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term ‘SNF market basket percentage increase’ for a fiscal year means a percentage increase in the rate of change in the cost reporting period service costs for the year under section 1888(a).

(3) STAY.—The term ‘stay’, means, with respect to a covered non-routine service furnished by a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual’s spell of illness.

(b) NEW PAYMENT METHOD FOR COVERED NON-Routine SERVICES BEGINNING IN FISCAL YEAR 1996.—

(1) IN GENERAL.—(A) The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods ending on or before September 30, 1995.

(B) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished during the individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) of subsection (d) where the reasonable cost of providing such services in accordance with section 1811(v) is as follows: the Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(B).

(2) PROVISIONAL DETERMINATION OF FACILITY PER STAY AMOUNT.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section for a cost reporting period if the Secretary determines that payments to the facility under this section for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(B).

(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLS.—(A) CLARIFICATION OF REQUIREMENT TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(10) for such service, the skilled nursing facility shall submit a claim for payment under this title for the amount of such service (with regard to whether or not the service was furnished by the facility, by others under arrangement with them made by the facility). The Secretary shall reduce payments to the facility under this section if the Secretary finds necessary to meet the requirement of this subsection if the Secretary finds necessary to meet the requirement of this subsection.

(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(12) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for the amount of such service under part B (without regard to whether or not the service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services furnished during a stay, the facility may reduce payments to the facility under this section for any covered non-routine service furnished during a stay if the aggregate payments made to the facility under this section for the stay amount determined under paragraph (2) exceed the product of the per stay amount applicable to the stay and the number of stays begun during the fiscal year for which payments were made under this title for covered non-routine services furnished during such stay.

(2) STAY AMOUNTS.—The facility-specific stay amount established under paragraph (2) instead of the per stay amount applicable to the stay.

(3) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is the amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce payments made to a facility under this section for covered non-routine services furnished during a cost reporting period beginning during the following fiscal year in an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce payments made to a facility under this section for covered non-routine services furnished during a cost reporting period beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments made to a facility under this section for covered non-routine services furnished during a cost reporting period beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments made to a facility under this section for covered non-routine services furnished during a cost reporting period beginning during the following fiscal year in an amount equal to such excess.

(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—(1) AMOUNT FOR FISCAL YEAR 1996.—(A) IN GENERAL.—(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1995, increased (in a compounded manner) by the SNF market basket percentage increase as defined in section (a)(3) for each fiscal year through fiscal year 1996.

(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been determined prior to such date.

(B) FACILITIES NOT HAVING PBN COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1995, the Secretary shall establish a per stay amount for a skilled nursing facility for 12-month cost reporting period beginning during fiscal year 1996 that is the average of all per stay amounts determined under subparagraph (A).

(ii) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during any fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the fiscal year (without regard to any adjustment under paragraph (i)(1)(iii)) increased by the greater of:

(A) The SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

(B) 1.2 percent (1.1 percent for fiscal years after 1997).

(e) DETERMINATION OF FACILITY-SPECIFIC PER STAY AMOUNT.—The facility-specific per stay amount for a skilled nursing facility for a cost reporting period is—

(1) the sum of—

(A) the number of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during the period, and

(B) the Secretary's best estimate of the amount of payments made under part A during the period which were furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary divided by

(ii) the average number of days per stay for all residents of the skilled nursing facility.

(f) INTENSIVE NURSING OR THERAPY BILLING—(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period ending on or before September 30, 1995, to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount determined under paragraph (b) divided by the number of days per stay determined under subsection (d)(1)(A).
(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(2)" and inserting "(2) and section 1888(a)";

(2) by adding at the end the following new paragraph:

"(3) For cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of such exceptions and adjustments to the cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED UNDER A CONTRACTING OR CONSULTING ARRANGEMENT.—Section 1882(a) (42 U.S.C. 1395a(a)) is amended—

(A) by striking "or" and inserting "or";

(B) by striking the period at the end of paragraph (1) and inserting ";";

and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) In the case of a resident of a skilled nursing facility furnished appropriate extended health care services, the Secretary of Health and Human Services shall determine the non-routine per stay costs of such services furnished to such resident during the cost reporting period beginning during fiscal year 1996, increased by the amount of the additional payments made under this title as a result of such exceptions and adjustments to the cost reporting periods occurring beginning in fiscal years 1996 through 2002.".


Sec. 7032. PAYMENTS FOR ROUTINE COST LIMITS.

(2) REDUCTIONS IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395u(v)(1)), as amended by section 7032, as if salary equivalence guidelines were in effect under section 1888A(a)(1) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.

(4) CONFORMING AMENDMENT.—Section 1833(a)(2)(B), as added by section 7037, as if salary equivalence guidelines were in effect under section 1888A(a)(1) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.
in effect for occupational, physical, respiratory, and speech pathology therapy services furnished for the 1-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(A) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

(1) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

(2) 24 percent of the pool amount for such fiscal year or, in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.9 percent of such State's or District's outlay allotment for fiscal year 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the fiscal year involved;

(3) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

(I) For fiscal years 1999, 104.25 percent.

(II) For fiscal years 2000 and 2001, 104 percent.

(B) Ceiling.

(i) In general.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

(1) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

(2) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved;

(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage of the national medicaid growth percentage is 103.9 percent.

(iii) For fiscal year 1997, 125.5 percent.

(iv) For fiscal year 1998, 132 percent.

(v) For fiscal year 1999, 151 percent.

(vi) For fiscal year 2000, 156 percent.

(vii) For fiscal year 2001, 144 percent.

(viii) For fiscal year 2002, 146 percent.

On page 833, line 21, after "section 2121" insert "plus any additional amount available to such State under subsection (g) or (h)."

On page 858, before line 19, insert the following:

(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

(A) CARRYOVER OF ALLOTMENT PERMITS.

(i) IN GENERAL.—If the amount of the payment to a State under this section for any fiscal year exceeds the amount of the allotment otherwise provided under section 2121 for such fiscal year, plus

(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2) resulting from the application of this subparagraph in the preceding fiscal year), then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

(2) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference determined in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 for a State may not exceed the amount for the 2 immediately preceding fiscal years of the difference in such fiscal year between the payment to a State under this section and the amount of the allotment otherwise provided under section 2121.

(3) EXCESS AMOUNTS REALLOCATED.—

(A) IN GENERAL.—The sum of the amounts in excess of the amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and the District of Columbia and the Commonwealth of Puerto Rico for any fiscal year shall be allocated among the States and the Commonwealth of Puerto Rico according to the following formula:

[(V) for fiscal year 2000, 156 percent: (IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(V) for fiscal year 2000, 156 percent: (IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(VI) for fiscal year 2001, 144 percent. On page 833, line 21, after "section 2121" insert "plus any additional amount available to such State under subsection (g) or (h)."

On page 858, before line 19, insert the following:

(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

(A) CARRYOVER OF ALLOTMENT PERMITS.

(i) IN GENERAL.—If the amount of the payment to a State under this section for any fiscal year exceeds the amount of the allotment otherwise provided under section 2121 for such fiscal year, plus

(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2) resulting from the application of this subparagraph in the preceding fiscal year), then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

(2) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference determined in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 for a State may not exceed the amount for the 2 immediately preceding fiscal years of the difference in such fiscal year between the payment to a State under this section and the amount of the allotment otherwise provided under section 2121.

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[(V) for fiscal year 2000, 156 percent: (IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(V) for fiscal year 2000, 156 percent: (IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(VI) for fiscal year 2001, 144 percent. On page 833, line 21, after "section 2121" insert "plus any additional amount available to such State under subsection (g) or (h)."

On page 858, before line 19, insert the following:

(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

(A) CARRYOVER OF ALLOTMENT PERMITS.

(i) IN GENERAL.—If the amount of the payment to a State under this section for any fiscal year exceeds the amount of the allotment otherwise provided under section 2121 for such fiscal year, plus

(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2) resulting from the application of this subparagraph in the preceding fiscal year), then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

(2) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference determined in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 for a State may not exceed the amount for the 2 immediately preceding fiscal years of the difference in such fiscal year between the payment to a State under this section and the amount of the allotment otherwise provided under section 2121.

(3) EXCESS AMOUNTS REALLOCATED.—

(A) IN GENERAL.—The sum of the amounts in excess of the amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and the District of Columbia and the Commonwealth of Puerto Rico for any fiscal year shall be allocated among the States and the Commonwealth of Puerto Rico according to the following formula:

[(V) for fiscal year 2000, 156 percent: (IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(V) for fiscal year 2000, 156 percent: (IV) for fiscal year 1999, 151 percent: (III) for fiscal year 1998, 156 percent: (II) for fiscal year 1997, 144 percent.

(VI) for fiscal year 2001, 144 percent.
the District of Columbia shall be available for payment in such fiscal year to qualified States as may apply to the Secretary to make such an allocation for such fiscal year.

(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

(ii) with a State outlay allotment under section 2121 which is—

(I) subject to the ceiling determined under section 2121(b)(1)(B) for the fiscal year,

(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

(III) subject to such floor:

(i) which has no amount of difference as determined under paragraph (I) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year; and

(ii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments available for any qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate among such group of qualified States in the following order:

(I) All qualified States described in subparagraph (B)(i)(I).

(II) All qualified States described in subparagraph (B)(i)(II).

(III) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

(B) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

(I) APPROPRIATION.—There is hereby authorized to be appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

(A) For Arizona. $63,000,000.

(B) For Florida. $250,000,000.

(C) For Georgia. $250,000,000.

(D) For Kentucky. $75,500,000.

(E) For South Carolina. $181,000,000.

(F) For Texas. $250,000,000.

(G) For Vermont. $50,000,000.

On page 585, line 19, strike "(g)" and insert "(i)"

At the end of Subtitle B of Title VII insert:

SEC. 7196. ADJUSTMENT OF POOL AMOUNTS.

Notwithstanding any other provisions in law, the Secretary shall adjust Medicaid pool amounts in FY 1997, FY 2000, and FY 2001 for each State by a proportionate amount such that total Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 shall not exceed the amounts provided in section 2121(b)(1) of Social Security Act as added by section 7197(a) of this Act.

In addition, such amounts shall be increased by a similar amount in the subsequent fiscal year and 2b. reduced by $3,000,000,000 in FY 2000, and increased by such an equal amount in the subsequent fiscal year.

Beginning on page 889, line 20, strike all that follows in page 897, line 19, and insert the following: "collected shall be paid to such individual.

(C) EFFECTIVE DATE.—Notwithstanding any other provisions of law, subsection (B) shall be effective on and after January 1, 1996.

"SEC. 2317. REQUIREMENTS FOR NURSING FACILITIES.

(a) REQUIREMENTS FOR NURSING FACILITIES.—

(I) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

(i) are equivalent to or stricter than the requirements imposed under paragraph (I); and

(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect, may apply to the Secretary for a waiver of the requirements imposed under paragraph (I).

(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under paragraph (A) not later than 120 days after the date the application is submitted.

(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

(i) the penalty described in subsection (b) if the waiver granted under subparagraph (A) is not effective on and after January 1, 1996.

(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 3 percent of the amount available for such fiscal year under section 2121(c) for such fiscal year if the Secretary makes a determination that a State Medicaid plan has failed to comply with any provision of section 1919, as so in effect, or any State law requirements applicable to such plan under a waiver granted under section 1902(a)(2)(A).

On page 880, between lines 2 and 3, insert the following new sections:

SEC. 7196. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(ii) (42 U.S.C. 1396r(e)(7)(B)(ii)) is amended to read as follows:

"(ii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.

(b) CONFORMING AMENDMENTS.—

(I) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, with respect to a mentally ill or mentally retarded resident, that there has been a significant change in the resident's physical or mental condition, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.""

"(II) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking "ANNUAL".

"(III) The heading for section 1919(e)(7)(D)(I) (42 U.S.C. 1396r(e)(7)(D)(I)) is amended by striking "ANNUAL".

SEC. 7197. NURSE AIDE TRAINING IN NURSING FACILITIES.—In the ENQUIRY SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to determine the extent in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicare program under title XXI of such Act (in this section referred to as the "medicare and medicaid programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through the development of integrated approaches to care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary may use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 19 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (c).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year occurring during a demonstration project conducted under this section, the Secretary shall pay to each State or coalition of States an amount equal to the Federal capitated payment rate determined under paragraph (3) for each participating resident who is mentally ill or mentally retarded.

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section as the greater of the per diem cost of providing care to chronically-ill elderly and disabled beneficiaries
who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY. — (A) IN GENERAL.—Each State, or coalition of States, designated to receive the payments described in paragraph (1) of this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the date before the date of enactment of this Act), of any items and services provided to chronically ill, elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(4) STATE PAYMENTS. — Each State conducting, or in the case of a coalition of States participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the date before the date of enactment of this Act), of any items and services provided to beneficiaries under such programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY. — The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under this section for any fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under Medicare and Medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(6) DURATION. — (i) IN GENERAL. — The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(ii) TERMINATION. — The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the conditions specified and approved by the Secretary under this section.

(iii) OVERSIGHT. — The Secretary shall establish a system for evaluating and monitoring the demonstration projects conducted under this section.

(iv) REPORTS. — (A) Not later than 90 days after the close of each fiscal year of any demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(A) A description of the demonstration project.

(B) An analysis of the quality of the services delivered under the project.

(C) A description of the savings to the medical care budgets of the recipients as a result of the demonstration project.

On page 1394, after line 19, insert the following:

SEC. 7412. COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEAR 1996.

Notwithstanding any other provision of law, the Secretary may adjust any amount within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for urban consumers and clerical workers (CPI-W) for the United States city average for all items. any such adjustment which takes effect during fiscal year 1996 shall be equal to 1.6 percent. Beginning on page 786, strike line 9 and all that follows through page 788, line 6.

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

● Mr. SANTORUM. Mr. President, on January 31, 1995, I introduced my first bill as a U.S. Senator, S. 3004, the Commercial Aviation Fuel Tax Repeal Act. We are now on the verge of passing a budget which, if passed, in 28 years will balance the Federal budget and eliminate the Federal deficit. I am proud to note that S. 304 has been incorporated to a great extent into this budget. As a result, I wish to take this time to mention the thousands of workers and the many unions and business professionals who have provided consistent support for this crucial piece of legislation.

First, let me provide for the record a resolution as passed by the National Aerospace Workforce Coalition. Throughout the debate on the aviation fuel tax issue, I worked closely with the National Aerospace Workforce Coalition. This organization consists of local unions and workforce associations. The coalition represents some 42 different unions in 29 States. Many of my colleagues have received letters and phone calls from coalition members in their States. The coalition believes, as I do, that a commercial aviation fuel tax will be extremely harmful to America's manufacturing base.

The resolution which I have submitted goes to the heart of the relationship between a tax on jet fuel and commercial aircraft orders, namely, that every increase in taxes on commercial jet fuel will be followed by more cancellations and deferred orders of American made engines and aircraft.

The labor unions supporting the repeal of this fuel tax include the spectrum of America's aerospace industry and have been passed by unions representing scientists and engineers, production workers, as well as unions engaged in casting and fabricating the specialized metals used in the production of modern aircraft.

Further, I wish to note that the International Association of Machinists and Aerospace Workers, District Lodge 141 passed a similarly worded resolution on October 24, 1995. This union represents 34,000 members at 13 airlines, and their delegates unanimously passed this resolution at their annual convention.

The balanced budget which the Senate will pass shortly relieves the airline industry from any unfair tax, but only for a limited time. Currently, the House of Representatives has extended the aviation tax relief for 2 years and the Senate shall extend it for only 17 months. I am pleased that in these difficult budgetary times both Chambers have recognized not only the unfairness of this unprecedented tax, but also the social and economic disadvantage. As a result, I ask that the National Aerospace Workforce Coalition resolution be refiled earlier to be printed in the RECORD.

The resolution follows:

AVIATION FUEL TAX RESOLUTION

Whereas our country's airline industry has suffered enormous losses over the last five years, reducing airline employment by more than 120,000 workers and forcing remaining workers to accept reductions in wages and benefits;

Whereas several years ago government directives required the airline industry to pay excise taxes and fees in lieu of a fuel tax. which today collectively amounts to more than 527 million a year, at a cost of $5.6 billion in 1995. Imposing a fuel tax absent any broader effort at reassessing these other taxes would be both unprecedented and unfair;

Hence, for both fiscal and fairness reasons, an extension of the aviation fuel tax exemption is greatly needed. While we in the Senate have taken steps in the right direction by incorporating S. 304, in place of the current tax's budget act, we must continue to ensure that the airline industry is taxed fairly. This industry is one of our Nation's last great manufacturing gains, and its success in the thousands of workers and hundreds of thousands of families depend on the right to continue to uphold America's predominance in this critical industry;

I ask that the National Aerospace Workforce Coalition resolution be referred to an earlier printed in the RECORD.

The resolution follows:
Following is the text of H.R. 2491, as passed on October 28, 1995:

Resolved. That the bill from the House of Representatives (H.R. 2491) entitled "An Act to provide for reconciliation pursuant to section 305 of the concurrent resolution on the budget for fiscal year 1996", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION I. SHORT TITLE.
This Act may be cited as the "Balanced Budget Reconciliation Act of 1995".

SEC. 2. TABLE OF TITLES.
The table of titles for this Act is as follows:

TITLE I—COMMITTEE ON APPROPRIATIONS
Subtitle A—Committee on Appropriations
Part 1—Defense
Part 2—Domestic Programs
Part 3—Interest on the Public Debt
Part 4—Miscellaneous Provisions

Subtitle B—Committee on Appropriations
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Subtitle C—Committee on Appropriations
Part 1—Commerce, Justice, Science, and Related Agencies
Part 2—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies
Part 3—Interior, Environment and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Subtitle D—Committee on Appropriations
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title II—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title III—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title IV—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title V—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title VI—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title VII—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title VIII—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title IX—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title X—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title XI—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title XII—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title XIII—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
Part 6—Supplemental Appropriations

Title XIV—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
Part 5—International Affairs
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Title XV—Committee on Appropriations
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Subtitle A—Commitment Programs
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Title XIX—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
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Title XX—Committee on Appropriations
Subtitle A—Commitment Programs
Part 1—Energy and Water
Part 2—Interior, Environment and Related Agencies
Part 3—Labor, Health, Education, and Related Agencies
Part 4—Transportation, Treasury, and Related Agencies
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Subtitle D—Nutrition Assistance  
CHAPTER I—FOOD STAMP PROGRAM  
SEC. 1401. TREATMENT OF CHILDREN LIVING AT HOME.  
The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".
SEC. 1402. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.  
Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals."
SEC. 1403. ADJUSTMENT OF THRIFTY FOOD PLAN.  
The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—  
(1) by striking "and (11)" and inserting "(11)";  
(2) by inserting "through October 1, 1994" after "1990, and each October 1 thereafter"; and  
(3) by inserting before the period at the end the following: "and (12) on October 1, 1995, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1995, the Secretary may not reduce the cost of the diet in effect on September 30, 1995".
SEC. 1404. DEFINITION OF HOMELESS INDIVIDUAL.  
Section 3(s)(2)(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(c)) is amended by inserting "for not more than 90 days" after "temporary accommodation".
SEC. 1405. STATE OPTIONS IN REGULATIONS.  
Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(b)) is amended—  
(1) by striking '(b) The Secretary' and inserting "(b) UNIFORM STANDARDS.—Except as otherwise provided in this Act, the Secretary"; and  
(2) by striking "No plan" and inserting "Except as otherwise provided in this Act, no plan."
SEC. 1406. ENERGY ASSISTANCE.  
(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—  
(1) by striking paragraph (11); and  
(2) by redesignating paragraphs (12) through (15) as paragraphs (11) through (14), respectively.  
(b) CONFORMING AMENDMENTS.—  
(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—  
(A) in paragraph (1)—  
(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and  
(ii) in subparagraph (B), by striking "not including energy or utility-cost assistance.";  
(B) in paragraph (2)—  
(i) by striking subparagraph (C); and  
(ii) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively; and  
(C) by adding at the end the following: "(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—  
(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy
assistance to a household shall be considered money payable directly to the household.

(b) ENERGY ASSISTANCE EXPENSES.—For purposes of this subparagraph, a prepaid energy expense paid by a State agency shall be deemed to be the cost of energy necessary to provide the level of energy assistance described in subparagraph (A), and (B), and (C). With respect to such individual, "and"

and (D) by striking "(I) Notwithstanding and inserting "(I) Notwithstanding";

(B) by striking "food stamps"; and

(C) by striking paragraph (2).

SEC. 1407. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2016(d)) is amended—

(1) in the first sentence—

(A) by striking "(I) Notwithstanding and inserting "(I) Notwithstanding;"

(B) by striking "food stamps;" and

(C) by striking paragraph (2).

(b) HOMELESS SHELTER DEDUCTION.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking the last 3 sentences and inserting—

"(A) by striking "may use the deduction in determining eligibility and allotments for the households, except that the State agency may not on the basis of factors other than program and (B) by striking "in determining eligibility and allotments for the households with extremely low shelter costs."

SEC. 1408. AMOUNT OF VEHICLE ASSET LIMITATION.

The first sentence of section 5(l)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking "through September 30, 1995" and inserting "through such date and on and inserting "and shall be adjusted on October 1, 1996," and

SEC. 1409. BENEFITS FOR ALIENS.

Section 6(l) of the Food Stamp Act of 1977 (7 U.S.C. 2015(l)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by inserting "who or executed such an affidavit willfully or fraudulently and (B) by striking "for a period and all that follows through the end of the sentence and inserting "until the end of the period ending on the 30th day after the later of the date the affidavit or agreement was executed or the date the affidavit or agreement was executed;"

(2) in paragraph (2)—

(A) in the first sentence of subparagraph (A), by striking "(I) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of sentence or (II) a spouse or unmarried dependent child of a veteran under subtitle (I);" and

(B) by striking paragraph (2).
(b) CONFORMING AMENDMENT.—
(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2015(b)(2)) is amended by striking '601(1)(A)(i)' and inserting '601(1)(A)(ii)'.
(2) Section 20 of the Act (7 U.S.C. 2025(h)) is amended by striking subsection (a) and inserting the following:

"(a) ELIGIBILITY.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for [ ] AMOUNTS—

'(1) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

'(1) IN GENERAL.—If a disqualification is imposed on a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a welfare or public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

'(2) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that the determination under subsection (d) shall be considered in determining eligibility.

'(b) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking 'that is comparable to a requirement of paragraph (1)' and inserting the following:

'(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under this section an amount equal to

'(i) for fiscal year 1995, 77,000,000;

(ii) for fiscal year 1996, 80,000,000;

(iii) for fiscal year 1997, 85,000,000;

(iv) for fiscal year 1998, 86,000,000;

(v) for fiscal year 2000, 85,000,000; and

(vi) for fiscal years 2001, 2002, and 2003, 85,000,000.

'(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) using a formula (as determined by the Secretary) that gives consideration to the population in each State selected by section 6(d).

'(C) REALLOCATION.—On notification under clause (B), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

'(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than 500,000 for each fiscal year.

SEC. 1412. INCOME CALCULATION. Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: "The Secretary shall consider the indicated income for all income, and the financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or the income of a member thereof, for the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which the individual is a member.'

SEC. 1413. COMPARABLE TREATMENT FOR DISQUALIFICATION. (a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by adding at the end the following:

"(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in a payment due under a court order for the support of a child of the individual.

'(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

'(A) a court is allowing the individual to delay payment or

'(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.

SEC. 1414. COOPERATION WITH CHILD SUPPORT AGENCIES. Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking the third sentence and inserting the following:

"(1) IN GENERAL.—At the option of a State agency subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) in establishing the paternity of the child (if the child is born out of wedlock); and

'(B) in obtaining support for—

'(i) the child; and

'(ii) the individual and the child.

'(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual who is living with and exercising parental control over a child under the age of 18 who has an absent parent unless the individual is delinquent in a payment due under a court order for the support of a child of the individual.

'(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

SEC. 1415. DISQUALIFICATION FOR CHILD SUPPORT ARREARS. Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1414) is further amended by adding at the end the following:

'(A) IN GENERAL.—If a court determines that the State agency will not expend any household if the individual is delinquent in any payment due under a court order for the support of a child of the individual.

'(B) EXCEPTIONS.—Paragraph (1) shall not apply if—

'(i) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.

SEC. 1416. PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES. Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1415) is further amended by adding at the end the following:

'(B) (D) 2 OR MORE STATES.—An individual shall be permanently ineligible to participate in the food stamp program of any household if the individual is found by a State agency to have made, or is convicted in Federal or State court of having made, a fraudulent application or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States.

SEC. 1417. WORK REQUIREMENT. (a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is further amended by adding at the end the following:

'(B) WAIVER.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

'(A) has an unemployment rate of over 8 percent; or

'(B) does not have a sufficient number of jobs to provide employment for the individuals.

(b) TRANSITION PROVISIONS. Notwithstanding section 1417, the term "preceding 12-month period" in section 6(m) of the Food Stamp Act of 1977 (7 U.S.C. 2015) means the preceding period that begins on October 1, 1995.
of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of the State; or

(2) the individual is on probation or parole imposed under a Federal or State law.

SEC. 1419. ELECTRONIC BENEFIT TRANSFERS.
Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:

"(A) by striking subsection (b) and inserting the following:

"(B) COLLECTION OF OVERISSUANCES.—

(1) IN GENERAL.—The Department of Agriculture is authorized to remove, restrict, or otherwise make unavailable benefits provided under a program established by the Department of Agriculture program in lieu of providing the allotment that would have been received by the household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp program.

(2) REQUIREMENT.—A State agency may elect to carry out a private sector employment initiative under paragraph (1) only if less than 90 percent of the households that received food stamp benefits during the summer of 1993 and received benefits under a States program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

(3) PROCEDURE.—A State agency that elects to carry out a private sector employment initiative under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be allotted to a household under the food stamp program; but for the operation of this subsection, to provide the benefits described in paragraph (1); and employing a new employee who is a public assistance recipient.

(4) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—A State agency may elect to use amounts equal to the allotment that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting jobs under a work supplementation or support program established by the State.

(5) PROCEDURE.—If a State agency makes an election under paragraph (1), the State agency may elect to carry out a private sector employment initiative under paragraph (1) only if less than 90 percent of the households that received food stamp benefits during the summer of 1993 and received benefits under a States program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

SEC. 1420. MINIMUM BENEFIT.
The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2016(a)) is amended by stricken "shall be adjusted" and all that follows thereof as follows:

"...and all that follows thereof as follows:

"(A) Any allotment or direct benefits provided under this Act shall be adjusted and shall be paid to the household at an amount equal to the value of the allotment or direct benefits provided under this Act, and the income and resources of the household taken into account for the purpose of determining the allotment or direct benefits provided under this Act, and the income and resources of the household taken into account for the purpose of determining the allotment or direct benefits provided under this Act, shall be determined by the State agency.

"(B) Any allotment or direct benefits provided under this Act shall be adjusted and shall be paid to the household at an amount equal to the value of the allotment or direct benefits provided under this Act, and the income and resources of the household taken into account for the purpose of determining the allotment or direct benefits provided under this Act, shall be determined by the State agency.

SEC. 1421. BENEFITS ON RECERTIFICATION.
Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2016(c)(2)(B)) is amended by stricken "shall be adjusted" and all that follows thereof as follows:

"(B) REDUCING ALLOTMENT.—A State agency may collect a reduced allotment provided under subparagraph (A) by reducing the monthly allotment of the household of which the individual is a member by not more than 25 percent.

SEC. 1422. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.
Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(A) ALLOCATION OF BENEFITS.—If the benefits of a household are reduced under a Federal, State, or local law regulating welfare or public assistance, or other law requiring the failure to perform an action required under the law or program, for the duration of the reduction:

(1) the household may not receive an increased allotment as a result of the decrease in the income of the household to the extent that the decrease is the result of the reduction; and

(2) the State agency may reduce the allotment of the household by not more than 25 percent.

SEC. 1423. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.
Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(A) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.—In the case of an individual who resides in a hospital, institution, or any institution or center for the purpose of a drug or alcohol treatment program, described in the last sentence of section 8(I), a State agency may provide an allotment for the individual to—

(1) the institution as an authorized representative for the individual for a period that is not to exceed the period provided under subparagraph (A) of section 1416,

(2) the individual, if the individual leaves the institution;

SEC. 1424. COLLECTION OF OVERISSUANCES.
(A) IN GENERAL.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(B) COLLECTION OF OVERISSUANCES.—

(1) In General.—Except as otherwise provided in this subsection, the State agency shall collect any overissuance of coupons issued to a household by—

(A) reducing the allotment of the household;

(B) withholding unemployment compensation from a member of the household under subsection (2);

(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

(D) any other means.

(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency determines that the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

(3) HARDSHIPS.—A State agency may not use an allotment reduction under paragraph (1) if the reduction would cause a hardship on the household, as determined by the State agency.

(4) MAXIMUM LENGTH OF ABSENCE FROM FAMILY.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program, the State agency may reduce the allotment of the household under paragraph (1) if, after 180 days, the individual fails to elect to reduce the allotment of the household under the food stamp program under paragraph (1) by the greater of—

(A) 10 percent of the monthly allotment of the household; or

(B) $10.

(5) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.

(6) In Subsection (d)—

(A) by striking "as determined under subsection (b)" and all that follows thereof as follows:

"(B) REQUIREMENT.—A State shall be eligible to carry out a private sector employment initiative under this subsection only if less than 90 percent of the households that received food stamp benefits during the summer of 1993 and received benefits under a States program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

(2) PROCEDURE.—A State that has elected to carry out a private sector employment initiative under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be allotted to a household under the food stamp program; but for the operation of this subsection, to provide the benefits described in paragraph (1);

(3) ELIGIBILITY.—A household shall be eligible for the work supplementation or support program under paragraph (2) if an adult member of the household—

(A) has worked in unsubsidized employment in the private sector for not less than the preceding 90 days;

(B) has earned not less than $360 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;
SEC. 1425. COMPLIANCE WITH STATE PLAN.

October 30, 1995

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"[10] BENEFITS FOR ALIENS—

"(1) ELIGIBILITY.—No individual shall be eligible to receive benefits under a State plan if—

"(A) the individual is not eligible to participate in the food stamp program under section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027a-1); or

"(B) the individual is not eligible to receive benefits under a State plan funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under subsection (c) of section 601 of the Social Security Act (42 U.S.C. 601 et seq.) if the individual is no longer eligible for the State program because of earned income; or

"(C) the individual is not eligible to receive benefits under a State plan approved under subsection (b) of section 601 of the Social Security Act (42 U.S.C. 601 et seq.) for any reason.

"(2) BENEFITS.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(b).

"(3) EMPLOYMENT AND TRAINING.—No individual or member of a family shall be eligible to receive benefits under a State plan funded under this section if the individual is not eligible to participate in the food stamp program under subsection (d) or (e) of section 6.

"(4) WORK PROGRAMS.—Each State shall include in the application and training program described in section 6(b)(1) for needy individuals under the program.

"(5) ENFORCEMENT.—The Secretary may withhold not more than 5 percent of the amount allotted to a State under this section if the State does not use an income and eligibility verification system established under section 1317 of the Social Security Act (42 U.S.C. 1320b-7).

"(6) PAYMENTS.—

"(I) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application and training program approved under subparagraph (A), an amount that is equal to the allotment of the State under subsection (c) of section 601 of the Social Security Act (42 U.S.C. 601 et seq.) for that fiscal year, with necessary adjustments for the cost of living.
"(2) SPENDING OF FUNDS BY STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), payments to a State from an allotment under this section (l)(2) for a fiscal year may be expended by the State only in the fiscal year.

(B) CARRYOVER.—The State may reserve up to 10 percent of an allotment under subsection (l)(2) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserve funds may not exceed 10 percent of the total allotment received under this section for a fiscal year.

(3) ASSISTANCE AND ADMINISTRATIVE EXPENSES.—In each fiscal year of the Federal funds expended by a State under this section—

(i) not less than 80 percent shall be for food assistance;

(ii) not more than 6 percent shall be for administrative expenses.

(4) PROCUREMENT OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, provided that food assistance to needy individuals and families, such as electronic benefits transfer limited to food purchases, coupons limited to food purchases, or digital benefits transfer limited to food purchases, shall be independent of any agency administering assistance to pregnant women, infants, and children.

(5) DEFINITION OF FOOD ASSISTANCE.—In this section, the term 'food assistance' means assistance that may be used only to obtain food, as defined in section (g).

(6) AUDITS.—

(A) JUDICIAL APPEALS.—An audit under this section shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this section and shall be conducted in accordance with generally accepted auditing principles.

(B) INDEPENDENT AUDITOR.—An audit under this section shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this section and shall be conducted in accordance with generally accepted auditing principles.

(2) PAYMENT ACCURACY.—Each annual audit under this section shall include an audit of payment accuracy under this section that shall be based on a statistically valid sample of the caseload in the State.

(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this section, the State shall submit a copy of the audit to the Secretary.

(4) PAYMENT REMEDIES.—Each State shall provide remedies to the extent necessary to correct any determination made under this section or to have not been expended in accordance with the State plan, or the Secretary may offset the amounts against any other amount paid to the State under this section.

(A) NONDISCRIMINATION.—

(i) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, color, national origin, sex, or disability.

(ii) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 et seq.) may be used by the Secretary to enforce paragraph (i).

(2) ALLOTMENTS.

(A) DEFINITION OF STATE.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

(B) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 of this Act for each fiscal year, the Secretary may allot to each State participating in the program established under this section an amount that is equal to the sum of—

(i) the greater of, as determined by the Secretary—

(A) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

(B) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

(ii) the greater of, as determined by the Secretary—

(A) the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (b), respectively, of section 16 of this Act for fiscal year 1994; or

(B) the average per fiscal year of the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (b), respectively, of section 16 of this Act for each of fiscal years 1992 through 1994.

(3) SPENDING OF FUNDS BY STATE.

A State shall—

(A) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759(a)(3)(B)) is amended by striking "3(m)" and inserting "2.25 cents"; and

(B) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

CHAPTER 2—CHILD NUTRITION PROGRAMS

PART I—REIMBURSEMENT RATES

SEC. 1441. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

(a) IN GENERAL.—Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 175b)(b)(2)) is amended by striking "except that" and all that follows through the end of subparagraph (g).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1995.

SEC. 1442. LUNCHES, BREAKFASTS, AND SUPPLIES.

(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759(a)(3)(B)) is amended—

(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

(2) by striking subparagraph (D) as so designated and inserting the following:

"(D) ROUNDOING—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding school year;

(ii) adjust the resulting amount in accordance with subparagraphs (B) and (C); and

(iii) round the result to the nearest lower cent increment.

(2) ADJUSTMENT FOR 2-MONTH PERIOD BEGINNING JULY 1, 1996—On January 1, 1996, the Secretary shall adjust the rates and factor for the remainder of the school year by rounding the previously established rates and factor to the nearest lower cent increment.

(3) ADJUSTMENT FOR 2-MONTH PERIOD BEGINNING JULY 1, 1996—On the close of the 2-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rates for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1443. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773b)(b)) is amended—

(1) in paragraph (1)(B)—

(A) in the first sentence, by striking "section 11(b)" and inserting "paragraph (1)(B)"; and

(B) in the second sentence, by striking ", and" and inserting ", and"; and

(B) in the second sentence, by striking ", adjusted to the nearest one-fourth cent", and inserting ", adjusted to the nearest one-fourth cent, and in- 

cluding the cost of the meals as adjusted to the nearest one-fourth cent."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1996.

SEC. 1444. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773b)(1)(B)) is amended by striking "2.25 cents" and all that follows through "Act" and inserting "the same as the national average payment rate for paid supplements, as established under section 4(b) of the National School Lunch Act (42 U.S.C. 175b)(b)"

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

PART II—GRANT PROGRAMS

SEC. 1451. SCHOOL BREAKFAST STARTUP GRANTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773b)(b)) is amended by striking subsection (g) and (i) of section 4(b).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1996.

PART III—OTHER AMENDMENTS

SEC. 1461. CHILD AND ADULT CARE FOOD PROGRAM.

(a) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRICTED DAY CARE HOME REIMBURSEMENTS.—Section 17(3)(3) of the National School Lunch Act (42 U.S.C. 1766(1)(3)) is amended by striking "(3) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(A) REIMBURSEMENT FOR FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—An institution that participates in the program with a day care home that will be a family or group day care home sponsoring organization shall be provided, for payment to a
home sponsored by the organization. reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOME

(I) DEFINITION. —In this paragraph, the term ‘’family or group day care home’’ means—

(a) any family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose income meets the income eligibility guidelines for free or reduced price meals under section 9;

(b) any family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1711 et seq.); or

(c) any family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is determined in accordance with this subpart.

(II) REIMBURSEMENT.—Except as provided in subsection (I), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (I) except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home who does not meet the income eligibility guidelines for free or reduced price meals under section 9 of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1711 et seq.).

(III) FACTORS.—Except as provided in subsection (IV), the reimbursement factors applied to a home referred to in subsection (II) shall be the factors in effect on the date of enactment of this subpart.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent. The adjustments in factors under clause (I) shall be in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOME

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subsection (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 30 cents for breakfasts, and 15 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded to the nearest lower cent. The adjustments in factors under this clause shall be in effect on June 30 of the preceding school year.

(cc) REIMBURSEMENT.—A family or group day care home that does not meet the criteria set forth in clause (i) unless the reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (I) except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home who does not meet the income eligibility guidelines for free or reduced price meals under section 9 of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1711 et seq.).

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (i)(I) may elect to receive reimbursement factors in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subclause to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals, the reimbursement factors set by the Secretary shall be the factors prescribed under clause (i)(I).

(bb) FACTORS FOR INELIGIBLE HOME.—In the case of meals or supplements served under this subclause to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in clause (i)(II), the family or group day care home shall provide the Secretary with the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in this subparagraph. The Secretary shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL FACTORS FOR CHILDREN IN LOW INCOME HOMES.—A family or group day care home sponsoring organization may consider a child participating in or subsidized under, a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed 30 percent of the amount to carry out the child care program under this section to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (i)(II) solely for the children participating in a program referred to in item (aa) if the home certifies to the Secretary that meals served to children enrolled in the home in a specified month or other period.

(jj) PAYMENTS.—Any payments made under this subparagraph shall be paid to the Secretary, and the Secretary shall make the payments to each State agency administering a child care program under this section.

(III) PROVISION OF DATA.—The Secretary shall provide to each State agency administering a child care program under this section a list of the names and addresses of the family or group day care home sponsoring organizations a list of the names and addresses of the sponsoring organizations a list of the names and addresses of the family or group day care home sponsoring organizations a list of the names and addresses of the sponsoring organizations.

(IV) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements in accordance with clause (I).

(IV) PROVISIONS TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(0)(3) of the Act is amended by adding at the end the following:

(DD) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

(i) IN GENERAL.—

(aa) MINIMUM REQUIREMENT.—From amounts made available under this section, the State shall reserve $5,000,000 of the amount made available for fiscal year 1996.

(bb) PURPOSE.—The Secretary shall use the funds made available under subclause (i) to provide grants to States for the purpose of providing—

(1) assistance, including grants, to family and group day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automobile reimbursement, and other assistance for the staff of the sponsoring organizations; and

(2) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 145(0)(I) of the Agricultural Reconciliation Act of 1995.

(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i) to provide grants to States for—

(aa) $30,000 in base funding to each State; and

(bb) any remaining amount among the States, based on the number of family day care homes participating in a child care program under this section during fiscal year 1994 as a percentage of the number of all family day care homes participating in a child care program under this section.

(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 5 percent of the amount to carry out this subparagraph.

(iv) ADDITIONAL PAYMENTS.—Any payments reserved under subparagraph (A) (as amended by section 145(0)(I) of the Agricultural Reconciliation Act of 1995).

(III) DURATION OF DETERMINATION.—For purposes of this section, a determination that a
family or group day care home is located in an area that qualifies the home as a tier I family day care home shall be granted a
(7 U.S.C. 2014(k)(2)) is amended—
(b) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17(c) of the Act is amended by striking subsection (k) and inserting the following:
"(k) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17(c) of the Act is amended by striking subsection (k) and inserting—"

SEC. 1497. VALUE OF FOOD ASSISTANCE.
(a) IN GENERAL.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended by striking subparagraph (B) and inserting the following:
"(B) ADJUSTMENTS.—
(i) IN GENERAL.—Except as otherwise provided in this subparagraph, in the case of each school year the Secretary shall—
(1) base the adjustment made under clause (1) on the amount of the unrounded adjustment for the preceding school year;
(2) adjust the resulting amount in accordance with paragraph (7); and
(3) round the result to the nearest lower cent increment.
(ii) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—
(1) base the adjustment made under clause (1) on the amount of the unrounded adjustment for the school year beginning July 1, 1995;
(2) adjust the resulting amount to reflect the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May for the most recent 12-month period for which the data are available; and
(3) round the result to the nearest lower cent increment.
(iii) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1999.—In the case of the school year beginning July 1, 1999, the Secretary shall—
(1) base the adjustment made under clause (1) on the amount of the unrounded adjustment for the school year beginning July 1, 1998;
(2) adjust the resulting amount to reflect the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May for the most recent 12-month period for which the data are available; and
(3) round the result to the nearest lower cent increment.
(iv) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1995.—In the case of the 24-month period beginning July 1, 1995, the minimum rate shall be the same as the value of food assistance for the preceding school year.
(v) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1997.—In the case of the school year beginning July 1, 1997, the Secretary shall—
(1) base the adjustment made under clause (1) on the amount of the unrounded adjustment for the school year beginning July 1, 1996;
(2) adjust the resulting amount in accordance with paragraph (7); and
(3) round the result to the nearest lower cent increment.
(vi) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—
(1) base the adjustment made under clause (1) on the amount of the unrounded adjustment for the school year beginning July 1, 1997;
(2) adjust the resulting amount in accordance with paragraph (7); and
(3) round the result to the nearest lower cent increment.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1997.

SEC. 1480. NUTRITION EDUCATION AND TRAINING PROGRAMS.
(a) IN GENERAL.—Section 16(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended by striking paragraph (8) and inserting the following:
"(8) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1479. SPECIAL MILK PROGRAM.
(a) IN GENERAL.—Section 16(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended by striking paragraph (9) and inserting the following:
"(9) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1478. SUMMER FOOD SERVICE PROGRAM.
(a) IN GENERAL.—Section 16(a) of the National School Lunch Act of 1966 (42 U.S.C. 1775(a)) is amended by striking paragraph (10) and inserting the following:
"(10) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.
ever in subtitles A through G of this title an amendment is expressed in terms of an amendment to or repeal of a section or other proviso, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA—In this title, the terms "OBRA-1987", "OBRA-1987", "OBRA-1989", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-508), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-504), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(c) TABLE OF CONTENTS OF SUBTITLES A THROUGH J.—The table of contents of subtitles A through J of this title is as follows:

**TITLE VII—COMMITTEE ON FINANCE—SPENDING CONTROL PROVISIONS**

Sec. 7000. References; table of contents.

Subtitle A—Medicare

CHAPTER 1—MEDICARE CHOICE PLANS

SUBCHAPTER A—ESTABLISHMENT OF MEDICARE CHOICE PLANS

Sec. 7001. Medicare choice plans.

Sec. 7002. Treatment of 1876 organizations.

Sec. 7003. Special rule for calculation of payment rates for 1996.

SUBCHAPTER B—TAX PROVISIONS RELATING TO MEDICARE CHOICE PLANS

Sec. 7006. Medicare Choice Accounts.

Sec. 7007. Certain rebates included in gross income.

CHAPTER 2—PROVISIONS RELATING TO PART A

SUBCHAPTER A—GENERAL PROVISIONS RELATING TO PART A

Sec. 7011. PPS hospital payment update.

Sec. 7012. PPS-exempt hospital payments.

Sec. 7013. Capital payments for PPS hospitals.

Sec. 7014. Disproportionate share hospital payments.

Sec. 7015. Indirect medical education payments.

Sec. 7016. Graduate medical education and disproportionate share payments for medicare choice.

Sec. 7017. Payments for hospice services.

Sec. 7018. Extending medicare coverage of and application of hospital insurance tax to, all State and local government employees.

Sec. 7019. Nurse aide training in skilled nursing facilities subject to extended survey and certain other conditions.

SUBCHAPTER B—PAYMENTS TO SKILLED NURSING FACILITIES

PART I—PROSPECTIVE PAYMENT SYSTEM

Sec. 7025. Prospective payment system for skilled nursing facilities.

PART II—INTERIM PAYMENT SYSTEM

Sec. 7031. Payments for routine service costs.

Sec. 7032. Cost-effective management of covered non-routine services.

Sec. 7033. Payments for routine service costs.

Sec. 7034. Reductions in payment for capital-related costs.

Sec. 7035. Treatment of items and services paid for under part B.

Sec. 7036. Medical review process.

Sec. 7037. Revised salary equivalence limits.

Sec. 7038. Report by Prospective Payment Assessment Commission.

Sec. 7039. Effective date.

CHAPTER 3—PROVISIONS RELATING TO PART B

Sec. 7041. Payments for physicians' services.

Sec. 7042. Elimination of formula-driven overpayments for certain outpatient hospital services.

Sec. 7043. Payment for clinical laboratory diagnostic services.

Sec. 7044. Durable medical equipment.

Sec. 7045. Updates for orthotics and prosthetics.

Sec. 7046. Payments for capital-related costs of outpatient hospital services.

Sec. 7047. Payment for non-capital costs of outpatient hospital services.

Sec. 7048. Updates for ambulatory surgical services.

Sec. 7049. Payment for ambulance services.

Sec. 7050. Physician supervision of nurse anesthetists.

Sec. 7051. Part B deductible.

Sec. 7052. Part B premium.

Sec. 7053. Increase in medicare part B premium for high income individuals.

CHAPTER 4—PROVISIONS RelATING TO PARTS A AND B

SUBCHAPTER A—GENERAL PROVISIONS RELATING TO PARTS A AND B

Sec. 7055. Secondary payer provisions.

Sec. 7056. Treatment of assisted suicide.

Sec. 7057. Administrative provisions.

Sec. 7058. Sense of Senate regarding coverage for treatment of breast and prostate cancer under medicare.

SUBCHAPTER B—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 7061. Payment for home health services.

Sec. 7062. Maintaining savings resulting from temporary freeze on payment increases for home health services.

Sec. 7063. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.

CHAPTER 5—RURAL AREAS

Sec. 7071. Medicare-dependent, small, rural hospital payment extension.

Sec. 7072. Medicare rural hospital flexibility program.

Sec. 7073. Establishment of rural emergency access care hospitals.

Sec. 7074. Additional payments for physicians' services furnished in shortage areas.

Sec. 7075. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.

Sec. 7076. Demonstration projects to promote telemedicine.

Sec. 7077. PROPAC recommendations on urban medicare dependent hospitals.

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 7090. Short title.

SUBCHAPTER A—FRAUD AND ABUSE CONTROL PROGRAM

Sec. 7101. Fraud and abuse control program.

Sec. 7102. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health programs.

Sec. 7103. Health care fraud and abuse guidance.

SUBCHAPTER B—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 7111. Mandatory exclusion from participation in medicare and State health care programs.

Sec. 7112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.

Sec. 7113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.

Sec. 7114. Sanctions against practitioners and persons for failure to comply with statutory obligations.

Sec. 7115. Immediate sanctions for medicare health maintenance organizations.

Sec. 7116. Clarification of and additions to exceptions to anti-kickback penalties.

Sec. 7117. Effective date.
Sec. 7461. Earned income credit denied to individuals without children.

Sec. 7443. Sense of the Senate regarding enforcement of statutory rape laws.

Sec. 7422. Establishing national goals to prevent teenage pregnancies.

Sec. 7412. Reducing personnel in Washington D.C. area.

Subtitle H—Reform of the Earned Income Tax Credit

Sec. 7460. Amendment of 1986 code.

Sec. 7461. Earned income credit denied to individuals not authorized to be employed in the United States.

Sec. 7462. Repeal of earned income credit for individuals without children.

Sec. 7465. Modification of earned income credit amount and phaseout.

Sec. 7464. Rules relating to denial of earned income credit on basis of disqualifying income.

Sec. 7465. Modification of adjusted gross income definition for earned income credit.

Sec. 7466. Provisions to improve tax compliance.

Subtitle I—Increase in Public Debt Limit

Sec. 7471. Increase in public debt limit.

Subtitle A—Medicare

CHAPTER 1—Establishment of Medicare Choice Plans

Subchapter A—Establishment of Medicare Choice Plans

Sec. 7001. Medicare Choice Plans.

(a) Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new part:

"PART D—MEDICARE CHOICE PLANS"

"SUBPART I—DEFINITIONS"

"Sec. 1895A. Definitions."

"Sec. 1895B. Entitlement to Medicare Choice Eligible Individuals to Health Care Choices."

"Sec. 1895C. Enrollment procedures."

"Sec. 1895D. Effect of enrollment."

"SUBPART III—Medicare Choice Plan Requirements"

"Sec. 1895C. Availability and enrollment."

"Sec. 1895D. Enrollee rights."

"Sec. 1895E. Licensing and financial requirements."

"Sec. 1895F. Health plan standards."

"Sec. 1895G. Temporary certification process for coordinated care plans."

"Sec. 1895H. Regulation of Medicare payment amounts and rebates."

"Sec. 1895M. Medicare payment amounts."

"Sec. 1895N. Premiums and rebates.

"Sec. 1895P. Plan disenrollment procedures.

"SUBPART I—CONTRACTUAL AUTHORITY: TEMPORARY CERTIFICATION; REGULATIONS"

"Sec. 1895Q. General permission to contract."

"Sec. 1895R. Duration and termination of contract."

"Sec. 1895R. Temporary certification process for coordinated care plans."

"Sec. 1895S. Regulations."

"Sec. 1895T. Definitions."

"Sec. 1895U. Effective dates.

(a) MEDICARE CHOICE PLAN.—In this part—

"(1) IN GENERAL.—The term 'medicare choice plan' means an eligible health plan with respect to which there is a contract in effect under this part to provide health care coverage to medicare choice eligible individuals.

"(2) MEDICARE CHOICE PLAN SPONSOR.—The term 'medicare choice plan sponsor' and 'plan sponsor' mean a public or private entity which establishes or maintains a medicare choice plan.

"(B) TERMS RELATING TO HEALTH PLANS.—In this part:

"(i) ELIGIBLE HEALTH PLAN.—

"(A) IN GENERAL.—The term 'eligible health plan' means a policy, contract, or plan which is capable of providing health benefits coverage of items and services provided under the traditional medicare program to medicare choice eligible individuals.

"(B) TYPES OF INSURANCE.—The term 'eligible health plan' shall include any of the following types of plans of health insurance:

"(i) INDIVIDUAL PROVIDER service PLANS.—Private indemnity plans that reimburse hospitals, physicians, and other providers on a basis of a privately determined fee schedule.

"(ii) CO-OPERATIVE or ASSOCIATION PLAN.—Private managed or coordinated care plans which provide health care services through an integrated network of providers, including:

"(I) qualified health maintenance organizations as defined in section 1310(d) of the Public Health Service Act; and

"(II) preferred provider organization plans, point of service plans, provider-sponsored network plans, or other coordinated care plans.

"(iii) OTHER health CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in clause (i), or (ii).

"(C) UNION or ASSOCIATION PLAN.—

"(i) IN GENERAL.—The term 'union association plan' means an eligible health plan with a union sponsor, a Taft-Hartley sponsor, or a qualified association plan which:

"(I) is organized for purposes other than to market a health plan;

"(ii) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member;

"(iii) may not, in the case of a consolidated metropolitan statistical area, the Secretary may make a geographic adjustment to a medicare payment area otherwise determined under clause (i);

"(iv) is a permanent entity which receives a substantial majority of its financial support from active members; and

"(v) may not be owned or controlled by an insurance company.

"(D) UNION SPONSOR.—The term 'union sponsor' means an employee organization that establishes or maintains an eligible health plan other than pursuant to a collective bargaining agreement.

"(E) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means with respect to a group health plan established or maintained by a union, an employer, a Taft-Hartley sponsor, or a qualified association plan the following:

"(i) the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(D) QUALIFIED ASSOCIATION SPONSOR.—The term 'qualified association sponsor' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association) including the chamber of commerce, or a public entity association) which establishes or maintains an eligible health plan.

"(E) TERMS.—In this paragraph, the terms 'employee', 'employee organization', and group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(F) OTHER DEFINITIONS.—In this part:

"(1) AREAS.—

"(A) MEDICARE PAYMENT AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'medicare payment area' means—

"(I) a metropolitan statistical area (whether or not an area in an urbanized area in the case of a consolidated metropolitan statistical area, each primary metropolitan statistical area within the consolidated area; or

"(ii) one area within a State comprised of all areas that do not fall within a metropolitan statistical area.

"(ii) GEOGRAPHIC ADJUSTMENT.—Upon request of a State, the Secretary may make a geographic adjustment to a medicare payment area otherwise determined under clause (i).

"(ii) AREAS.—In this subparagraph, the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean area designated by such the Secretary of Commerce.

"(B) MEDICARE SERVICE AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'medicare service area' means a medicare payment area.

"(ii) GEOGRAPHIC ADJUSTMENT.—The Secretary may designate a medicare service area other than a medicare payment area for a medicare choice plan if the Secretary determines that such designation would not result in the enrollment of enrollees in the plan in such area which are substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the medicare payment area.

"(2) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'medicare choice eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a medicare choice plan may continue to be enrolled in that plan. Not later than Jan. 1, 1999, the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' to include individuals with end-stage renal disease and the enrollment of such individuals in medicare choice plans.

"(3) TRADITIONAL MEDICARE PROGRAM.—The term 'traditional medicare program' means the program of benefits available to individuals entitled to benefits under part A and enrolled under part B of this title, other than enrollment in a medicare choice plan under this part.

"(4) ENROLLMENT PROCEDURES.

"(a) IN GENERAL.—Except as provided in section 1895C, enrollment of a medicare choice eligible individual shall be entitled to enroll in any medicare choice plan with a medicare service area including the geographic area in which the individual resides during—

"(i) the annual open enrollment period described in section 1855B(g)(1)(A); or

"(ii) any other enrollment period described in section 1855B(g)(2) applicable to the individual.
(2) INFORMATION FURNISHED TO THE PLAN.—

(3) NOTICE TO INDIVIDUALS TO ASSIST IN ENROLLMENT.—

(a) MAILING OF NOTICE.—By September 30 of each year beginning after 1995, the Secretary shall provide each Medicare choice eligible individual and each individual entitled to benefits under part A prior to the end of the annual open enrollment period described in section 1895(g)(1).

(b) NOTICE DESCRIBED.—The notice described in subparagraph (A) shall include an information component that includes the information described in this section and any other information that the Secretary determines will assist the individual's enrollment decision.

(c) AFFIDAVIT.—An individual enrolling in a Medicare choice plan with notice of an individual's eligibility described in paragraph (I) does not apply, the Secretary shall, to the extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under subpart 3 of part G of title I of the Social Security Act (relating to the Medicare program) and enter into contracts with appropriate non-Federal entities to carry out activities under section 1895A.

(d) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) PREMIUM DIFFERENTIALS.—If a Medicare choice plan enrolling an individual, the Secretary shall require that each Medicare choice plan provide a description of the individual's Medicare choice eligible individual and each individual entitled to benefits under part A prior to the end of the annual open enrollment period described in section 1895(g)(1).

(2) SPECIAL ENROLLMENT PERIODS—An individual may terminate enrollment in a Medicare choice plan within 90 days of the individual's initial enrollment in such Medicare choice plan and enroll in a traditional Medicare program if the individual forfeits eligibility under such Medicare choice plan.

(3) SEAMLESS ENROLLMENT.—If a Medicare choice eligible individual is enrolled in a Medicare choice plan under section 1895D(b)(1)(B) and such individual fails to provide the Secretary with notice of the individual's enrollment or disenrollment information for items or services furnished to individuals enrolled with the plan under this section.

(4) SEC. 1895C—AVAILABILITY AND ENROLLMENT.—

(a) GENERAL AVAILABILITY.—(A) IN GENERAL.—Except as provided in paragraphs (B) and (C), an association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

(b) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) ANNUAL ENROLLMENT PERIOD—An individual enrolling in a Medicare choice plan during the annual open enrollment period under section 1895C(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

(2) SPECIAL ENROLLMENT PERIODS—An individual enrolling in a Medicare choice plan under section 1895C(b)(2) shall be enrolled in the plan for the calendar year beginning on and after the date on which the enrollment becomes effective.

(3) TERMINATIONS.—(i) exceptions. Except as otherwise provided in this subsection, an individual who has a Medicare choice plan may not terminate enrollment in a Medicare choice plan.

(ii) allowable. An association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

(c) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) ANNUAL ENROLLMENT PERIOD—An individual enrolling in a Medicare choice plan during the annual open enrollment period under section 1895C(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

(2) SPECIAL ENROLLMENT PERIODS—An individual enrolling in a Medicare choice plan under section 1895C(b)(2) shall be enrolled in the plan for the calendar year beginning on and after the date on which the enrollment becomes effective.

(3) TERMINATIONS.—(i) exceptions. Except as otherwise provided in this subsection, an individual who has a Medicare choice plan may not terminate enrollment in a Medicare choice plan.

(ii) allowable. An association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

(d) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) ANNUAL ENROLLMENT PERIOD—An individual enrolling in a Medicare choice plan during the annual open enrollment period under section 1895C(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

(2) SPECIAL ENROLLMENT PERIODS—An individual enrolling in a Medicare choice plan under section 1895C(b)(2) shall be enrolled in the plan for the calendar year beginning on and after the date on which the enrollment becomes effective.

(3) TERMINATIONS.—(i) exceptions. Except as otherwise provided in this subsection, an individual who has a Medicare choice plan may not terminate enrollment in a Medicare choice plan.

(ii) allowable. An association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

(e) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) ANNUAL ENROLLMENT PERIOD—An individual enrolling in a Medicare choice plan during the annual open enrollment period under section 1895C(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

(2) SPECIAL ENROLLMENT PERIODS—An individual enrolling in a Medicare choice plan under section 1895C(b)(2) shall be enrolled in the plan for the calendar year beginning on and after the date on which the enrollment becomes effective.

(3) TERMINATIONS.—(i) exceptions. Except as otherwise provided in this subsection, an individual who has a Medicare choice plan may not terminate enrollment in a Medicare choice plan.

(ii) allowable. An association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

(f) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) ANNUAL ENROLLMENT PERIOD—An individual enrolling in a Medicare choice plan during the annual open enrollment period under section 1895C(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

(2) SPECIAL ENROLLMENT PERIODS—An individual enrolling in a Medicare choice plan under section 1895C(b)(2) shall be enrolled in the plan for the calendar year beginning on and after the date on which the enrollment becomes effective.

(3) TERMINATIONS.—(i) exceptions. Except as otherwise provided in this subsection, an individual who has a Medicare choice plan may not terminate enrollment in a Medicare choice plan.

(ii) allowable. An association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

(g) SEC. 1895D—EFFECT OF ENROLLMENT.—

(1) ANNUAL ENROLLMENT PERIOD—An individual enrolling in a Medicare choice plan during the annual open enrollment period under section 1895C(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

(2) SPECIAL ENROLLMENT PERIODS—An individual enrolling in a Medicare choice plan under section 1895C(b)(2) shall be enrolled in the plan for the calendar year beginning on and after the date on which the enrollment becomes effective.

(3) TERMINATIONS.—(i) exceptions. Except as otherwise provided in this subsection, an individual who has a Medicare choice plan may not terminate enrollment in a Medicare choice plan.

(ii) allowable. An association plan which is sponsored by a labor union or association described in section 1895A(b)(2) shall be enrolled in the plan (other than under paragraph (3)(B), (C), (D)) without at least 12 months notice and any other enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.
"(G) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice plan sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsor, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that provides the full amount of services and benefits for the covered items and services when obtained out-of-network by the individual.

"(H) PLANNING PARTICIPATION IN ENROLLMENT PROCESS.—(1)ANNUAL OPEN ENROLLMENT PERIOD. — Each Medicare choice plan sponsor shall offer an annual open enrollment period in November of each year for the enrollment and termination of enrollment of Medicare choice eligible individuals for the next year.

"(2) ADDITIONAL PERIODS. — Each Medicare choice plan sponsor shall accept the enrollment of an individual in the Medicare choice plan—

"(A) during the initial Medicare enrollment period under section 1837 that applies to the individual (effective as specified by section 1838), and

"(B) during the period specified by the Secretary under section 1895A(b)(1), (C), (D) of section 1895(b)(2), and (c) of section 18951(b) of the act.

"(I) PLAN PARTICIPATION IN ENROLLMENT PROCESS.—(1) IN GENERAL. — In addition to any information furnished to the Secretary under section 1895(c), a Medicare choice plan sponsor may develop and distribute marketing materials and engage in marketing strategies in accordance with this subsection.

"(2) PLAN MARKETING AND ADVERTISING STANDARDS. — Any marketing material developed or distributed by a Medicare choice plan sponsor and any marketing strategy developed by such plan sponsor—

"(A) shall accurately describe benefits, costs of services, and out-of-pocket costs associated with the plan and the health care coverage available under the traditional Medicare program.

"(B) shall be pursued in a manner not intended to violate the nondiscrimination requirement of section 1895j(e)(1), and

"(C) shall not contain false or materially misleading statements or any information that is inconsistent with any fair marketing and advertising standards and requirements applicable to such plans under law.

"(J) PRIOR APPROVAL BY SECRETARY.—(A) IN GENERAL. — No marketing materials may be distributed by a Medicare choice plan sponsor and no marketing strategy developed by such plan sponsor—

"(i) at least 45 days before its distribution, the plan has submitted the material to the Secretary for review and—

"(ii) the Secretary has not disapproved the distribution of the material.

"(B) REVIEW. — The Secretary shall review all marketing materials submitted under guidelines established by the Secretary and shall disapprove such material if the Secretary determines in its discretion that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(C) DEEMED APPROVAL. — If marketing material has been submitted under subparagraph (A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of the material under subparagraph (A) in that area, the Secretary is deemed not to have disapproved such distribution in all areas covered by the plan.

"SEC. 1895H. BENEFITS PROVIDED TO INDIVIDUALS.—

"(A) BASIC BENEFITS. — Each Medicare choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(1) those items and services covered under parts A and B of this title which are available to individuals residing in the Medicare payment area of the plan sponsor;

"(2) additional health services as the Secretary may approve.

"The Secretary shall approve any such additional health services provided by the plan that the Secretary determines in its discretion that the health care services of the plan are substantially equivalent to the health care services furnished under section 1895b(a)(1). The Secretary may, in its discretion, approve the provision of such additional health services as the Secretary determines.

"(B) Alternative Medicare choice plans.—Each Medicare choice plan may also offer optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are agreed to by the individual enrolled in the sponsor's plan under this part, the additional premium amount shall be the same for all enrolled individuals in the Medicare payment area. Such benefits may be marketed and sold by the Medicare choice plan sponsor outside of the enrollment process described in section 1895d(b).

"(C) COST-SHARING.—

"(1) ENROLLEE COST-SHARING UNDER CHOICE PLAN MAY NOT EXCEED MEDICARE ENROLLEE COST.—Except as provided in paragraph (2), in no event shall the amount of covered deductible, coinsurance, and copayments charged an individual under a Medicare choice plan with respect to basic benefits described in subsection (a), be greater than the amount of the total amount of deductibles, coinsurance, and copayments charged an individual under the traditional Medicare program for a year.

"(2) HIGH DEDUCTIBLE PLANS.—Subparagraph (A) shall not apply to a high deductible plan described in section 1895a(b)(1)(B)(iii). (B) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the average amount charged in any year exceed the average total amount of deductibles, coinsurance, and copayments charged an individual under the traditional Medicare program for a year.

"(D) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made by the Secretary for the provision of a service or benefit under section 1885(m) and ending on the date of the next announcement under such section and the Secretary determines that such determination will result in a significant change in the costs to the Medicare choice plan of providing the benefits that are the subject of such national coverage determination and that such change in costs was incorporated in the determination of the Medicare payment amount included in the announcement made at the beginning of such period—

"(i) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(ii) if such coverage determination provides for coverage for additional benefits or coverage under additional circumstances, section 18951(b)(2) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period, unless otherwise required by law.

"(E) OVERLAPPING PERIODS OF COVERAGE.—A contract under this part shall provide that in the case of an individual who is receiving inpatient hospital services under section 1886(a) for the period beginning on the date of the individual's discharge (as defined in section 1886(g)(1)(B)) as of the effective date of the individual's—

"(1) enrollment with a Medicare choice plan under this part—

"(2) payment for such services during the individual's discharge shall not be made under section 1886(d), and

"(C) the plan sponsor shall not receive any payments with respect to the individual under this part during the period the individual is not enrolled.

"ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare choice plan sponsor may (in the case of the provision of services to an individual under this part) be treated as an insurer or other entity which under such law, plan, or policy is required to pay for the provision of such services, or (ii) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"SEC. 1895I. LICENSING AND FINANCIAL REQUIREMENTS.—

"(A) LICENSING REQUIREMENT.—

"(1) IN GENERAL. — A Medicare choice plan sponsor shall be organized and licensed under State law as an eligible entity which is capable of offering health insurance or health benefits coverage in each State in which the Medicare choice plan enrolls individuals under this part.

"(2) EXCEPTION FOR UNION, TAFT-HARTLEY, OR ASSOCIATION PLANS.—Paragraph (1) shall not apply to a union or an association plan described in section 1895A(b)(1) if such plan is exempt from such requirements under the Employee Retirement Income Security Act of 1974.

"(B) LICENSING REQUIREMENTS.—Paragraph (1) shall apply to a coordinated care plan except to the extent provided in section 1895p.

"(B) ASSUMPTION OF FULL FINANCIAL RISK. — A Medicare choice plan sponsor shall either be a Medicare or a long-term care provider which is capable of offering health care services for which beneficiary costs are required under section 1895g(a)(1), except that such plan sponsor may—

"(A) obtain insurance or make other arrangements for the cost of such health care services as to the aggregate value which exceeds $5,000 in any year,

"(B) obtain insurance or make other arrangements for the cost of such health care services provided to its enrolled members other than through the plan sponsor because medical necessity required their provision before they could be secured through the plan sponsor,

"(C) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(D) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to pay the full amount otherwise payable to the plan sponsor under this part.

"(C) PROTECTION AGAINST RISK OF INSOLVENCY.—(1) IN GENERAL. — A Medicare choice plan sponsor shall make adequate provision against
the risk of insolvency (including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency)—

"(A)" as determined by the Secretary, or

"(B)" as determined by a State which the Sec-

reator chooses to establish or alter practice parameters.

(2) FACTORS TO CONSIDER.—In establishing establish or altering practice parameters, the Secretary shall consult with interested parties and shall take into ac-

count—

"(A)" a coordinated care plan sponsor's deliv-

ery system assets and its ability to provide serv-

ices directly to enrollees through affiliated pro-

viders, and

"(B)" alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organiza-

tional insurance coverage, and partnerships with other licensed entities.

The Secretary is not required to include alter-

native means described in subparagraph (B) in the regulations, unless he considers such alter-

native means consistent with the standards.

(3) PAYMENTS TO THE PLAN.—(I) If an individual who is a medicare choice plan sponsor is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to individ-

uals enrolled under this part by a payment by the Secretary (and if applicable, the individual) which is paid on a periodic basis without regard to the extent, or kind of health care service actually provided to a member.

(II) A Medicare choice plan sponsor shall meet the requirements of subsection (d) and (e) of section 1860K if an individual is enrolled under this part with a medicare choice plan, only the plan sponsor shall be enti-

ted to receive payments from the Secretary under this title for services furnished to the in-

dividual.

SEC. 1635J. HEALTH PLAN STANDARDS.

(A) IN GENERAL.—Each medicare choice plan sponsor shall meet the requirements of this section.

(1) QUALITY ASSURANCE AND ACCREDITA-

TION—Quality assurance program established by a State which the Secretary consults with interested parties and shall take into ac-

count—

"(i) provide for the establishment of written protocols for utilization review, based on current standards of medical practice.

"(ii) provide for the establishment of written protocols for utilization review, based on current standards of medical practice.

"(iii) require that the health care service be provided at a site that is acceptable to the individual.

"(iv) take action to improve quality and assess the effectiveness of such action through peer review, and

"(v) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health care coverage op-

tions, and on such quality and outcomes measures as the Secretary determines to be appropriate, and

"(v) provide that the program is evaluated on an ongoing basis as to its effectiveness.

"(C) CONSUMER PROTECTIONS—(i) NONDISCRIMINATION.—Each medicare choice plan sponsor shall provide assurances to the Secretary of the plan's agreement not to discriminate against an enrollee based on a beneficiary's race, gender, or religion, disability, or national origin.

(ii) Timely and Adequate Coverage.—Each medicare choice plan sponsor shall provide assurances to the Secretary that the plan will make the plan sponsor a party to a hearing a hearing before the Secretary to the same ex-

tent as is provided in section 205(b), and in any such hearing the Secretary shall make the plan sponsor a party. If the amount in controversy is $1,000 or more, the individual or plan sponsor shall, upon notifying the other party, be enti-

ted to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the plan sponsor shall be enti-

ted to be parties to that judicial review. In ap-

pealing the Secretary's decision, the individual or plan sponsor shall provide an expedited review procedure under subparagraph (B) where a failure to receive any health care service or payment for such service would result in a significant harm.

(iii) Supplemental Coverage if Plan Termin-

ates the Contract.—Each medicare choice plan sponsor that provides items and services pursuant to a contract under this part shall provide supplemental coverage to the Secretary in the event the contract is terminated. Where a medicare choice plan sponsor shall provide supplemental coverage of benefits under this title related to a pre-

existing condition with respect to any exclusion period, to all individuals enrolled with the en-

ity who receive benefits under this title, for the lesser of 6 months or the duration of such pe-

riod.

(ii) Prompt Payment.—(I) In General.—Each medicare choice plan sponsor shall provide assurances to the Secretary that the plan will meet the requirements of paragraphs (1) and (2) of section 1842(c) of claims submitted for services furnished to individuals enrolled under this part. If the Secretary determines that the plan is not meeting the requirements of paragraphs (1) and (2) of section 1842(c) of such claims, the plan shall provide the Secretary with a written plan for the timely payment of such claims.

(ii) Supplemental Coverage if Plan Termin-

ates the Contract.—Each medicare choice plan sponsor that provides items and services pursuant to a contract under this part shall provide supplemental coverage to the Secretary in the event the contract is terminated. Where a medicare choice plan sponsor shall provide supplemental coverage of benefits under this title related to a pre-

existing condition with respect to any exclusion period, to all individuals enrolled with the en-

ity who receive benefits under this title, for the lesser of 6 months or the duration of such pe-

riod.

(i) DISCRIMINATION.—Each medicare choice plan sponsor shall provide assurances to the Secretary that the plan will not refuse to renew a beneficiary except in the case of fraud or nonpayment of premium amounts due the plan.
and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1877(a), as being needed promptly by an individual enrolled with the organization under this part.

(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate reference to such items and services, or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

(B) has received from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall constitute approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

SEC. 1895N. DETERMINATION OF MEDICARE PAYMENT AMOUNTS FOR PURPOSES OF THIS PART. —

In this subsection, the term 'emergency services' means—

(1) all items and services furnished in the emergency department of a hospital (including a trauma center), and

(2) ancillary services routinely available to such department.

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (3)) until the condition is stabilized.

(2) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden and unanticipated, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

(A) placing the person's health in serious jeopardy,

(B) serious impairment to bodily functions, or

(C) serious dysfunction of any bodily organ or part.

Subpart 4—Determination of Medicare Payment Amounts and Rebates

SEC. 1895M. MEDICARE PAYMENT AMOUNTS.

(1) IN GENERAL.—Not later than July 1 of each calendar year (beginning with 1996), the Secretary shall determine, and announce in a manner intended to provide notice to interested parties, a standardized medicare payment amount determined in accordance with this section for the following calendar year for each medicare payment area.

(2) ESTABLISHMENT OF STANDARDIZED MEDICARE PAYMENT AMOUNTS.—For purposes of this part—

(1) 1997.—

(A) IN GENERAL.—The standardized medicare payment amount for calendar year 1997 for a medicare payment area shall be equal to the sum of—

(i) 50 percent of the modified per capita rate for calendar year 1996, and

(ii) 50 percent of the adjusted average national per capita rate for calendar year 1996 increased by the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30, 1996.

(B) MODIFIED PER CAPITA RATE.—For purposes of subparagraph (A)(i), the modified per capita rate for calendar year 1996 for a medicare payment area shall be equal to the per capita rate which would have been determined (without regard to class) under section 1876(a)(1)(C) for 1995 if—

(i) the applicable geographic area were the medicare payment area, and

(ii) 50 percent of any payments attributable to sections 1861, 1861(l), 1886, 1886(n), and 1886(c)(1)(C) attributable to the inpatient hospital and ancillary services, increased by the percentage increase in the Secretary estimates will occur in medicare expenditures per capita for 1996 over medicare expenditures per capita for 1995.

(C) ADJUSTED AVERAGE NATIONAL PER CAPITA RATE.—

(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the adjusted average national per capita rate for a medicare payment area for calendar year 1996 shall be equal to the sum, for all types of medicare services (as classified by the Secretary), of the product for each such type of—

(I) the average national per capita rate for 1996,

(II) the proportion of such rate for the year which is attributable to such type of services,

and

(III) an index that reflects for 1996 and that type of service the relative input price of such services in the medicare payment area as compared to the national average input price of such services in the medicare payment area.

In applying subclause (III), the Secretary shall apply those indices that are used in applying (or updating) medicare payment rates for specific areas.

(ii) AVERAGE NATIONAL PER CAPITA RATE.—

For purposes of clause (i), the average national per capita rate for 1996 is the weighted average of the modified per capita rates determined under subparagraph (B) for all medicare payment areas for 1996.

(2) SUBSEQUENT YEARS.—

(A) IN GENERAL.—The standardized medicare payment amount for any calendar year after 1997 in a medicare payment area shall be an amount equal to the standardized medicare payment amount determined for such area for the preceding year, increased by the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30 of the preceding calendar year.

(B) SPECIAL RULE FOR 1998.—In applying subparagraph (A), the standardized medicare payment amount for the following calendar year shall be the amount which would have been determined if clause (iii) of paragraph (1)(B) had been modified by substituting '100 per cent' for '50 percent'.

(C) SPECIAL RULE FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—In computing the standardized medicare payment amount for any medicare payment area, there shall not be taken into account any individuals with end-stage renal disease or any medicare expenditures for such individuals.

(3) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

(1) IN GENERAL.—The rate of payment under section 18850 to a medicare choice plan sponsor with respect to any individual enrolled in a medicare choice plan of the sponsor shall be equal to the standardized medicare payment amount for the medicare payment area, adjusted for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence.

(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment under section 18850 to a medicare choice plan sponsor with respect to any individual with end-stage renal disease enrolled in a medicare choice plan of the sponsor. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the medicare payment area for such other area as specified by the Secretary.

(4) GEOGRAPHICAL ADJUSTMENTS.—

(1) ANNUAL ADJUSTMENTS.—

(A) IN GENERAL.—Unless Congress provides otherwise, beginning with 1999, the Secretary shall, based on the analysis under paragraph (2) and the extent the Secretary determines necessary, make annual differential adjustments to the standardized medicare payment amounts determined under subsec- tion (b)(2) for calendar years 2000 and 2001 in a manner designed to achieve appropriate and equitable variation in standardized medicare payment amounts across medicare payment areas by calendar year 2002. Such variation shall be reasonably related to measurable geographic differences in medicare payment areas.

(B) BUDGET NEUTRALITY.—The Secretary shall adjust the standardized medicare payment amount for a medicare payment area by a dollar amount in a manner that ensures that total payments under this section for a year are not greater than or less than total payments under such section would have been for fiscal year 1999 but for application of the adjustments under this part.

(2) ANALYSIS.—The Secretary, in consulta- tion with interested parties, shall conduct an analysis of the measurable input cost differences among medicare payment areas, including wage differentials, and other measurable variables identified by the Secretary. The Secretary shall also determine the extent to which medicare beneficiaries, including beneficiaries in rural and underserved areas, have access to more health plan choices by calendar year 2000 under the proposed changes to the standardized medicare payment amounts that have limited or enhanced such choices.

(REPORT TO CONGRESS.—Not later than March 1, 1999, the Secretary shall submit a report to the appropriate committees of Congress that includes the results of the analysis described in paragraph (2) and the annual differential adjustments to the standardized medicare payment amounts that the Secretary intends to implement under paragraph (1) for calendar years 2000 and 2001.

(2) EXPLANATION.—In each announcement made under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall provide for notice to medicare choice plans of proposed changes to the methodology for determining benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such plans an opportunity to comment on such proposed changes.

(3) NOTICE IN CHANGES TO BENEFIT ASSUMPTIONS.—

(1) IN GENERAL.—At least 45 days before making the announcement under subsection (a) (beginning with the announcement for 1998), the Secretary shall provide for notice to medicare choice plans of proposed changes to the methodology and assumptions used in the announcement in sufficient detail so that independent medicare choice plans can compute medicare payment rates under subsection (d) (for classes of individuals located in each medicare payment area) area in which the announcement was made under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall provide for notice to medicare choice plans of proposed changes to the methodology and assumptions used in the previous announcement and shall provide such plans an opportunity to comment on such proposed changes.

(4) DEMONSTRATION PROJECT ON MARKET- BASED REMUNERATION AND COST STANDARDIZ- ING.—The Secretary shall establish 1 or more demonstration projects to determine the standardized medicare payment amounts described in subsection (b) that would be appropriate for medicare choice plans in a medicare payment area. Not later than December 31, 2001, the Secretary shall submit to the Congress on the process of standardizing medicare payment amounts that are reflective of market price.

(5) SEC. 1895N. PREMIUMS AND REBATES. —

S. 16207

CONGRESSIONAL RECORD—SENATE

October 30, 1995
"Subpart S—Contractual Authority: Temporary Certification: Regulations"

SEC. 1895P. GENERAL PERMISSION TO CONTRACT.

(1) In GENERAL.—Each Medicare choice plan sponsor shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary, a temporary certification of the maximum amount for coverage under each Medicare choice plan it offers under this part in each Medicare payment area in which the plan is being offered.

(2) RETROACTIVE ADJUSTMENTS.—The premiums charged by a Medicare choice plan sponsor under this part may not vary among individuals who reside in the same Medicare payment area.

(3) THE AMOUNTS AS INCENTIVES.—Each Medicare choice plan sponsor shall permit the payment of monthly premiums on a prorated basis.

(4) A...
(35) INTERMEDIATE SANCTIONS.—In the case of a medical care plan sponsor for whom the Secretary makes a determination under section (b)(1) of the basis of which is not described in subparagraph (A) thereof, the Secretary may apply the following intermediate sanctions:

(A) Civil money penalties of not more than $25,000 for each determination under section (b)(1)(I) of the basis of which is the basis for the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the plan’s care plan and its sponsor as meeting the requirements of the standards and the review processes that take into account the fact that coordinated care plan sponsors provide services directly to enrollees through affiliated providers.

(B) Civil money penalties of not more than $10,000 for each week after the initiation of procedures by the Secretary under section (b)(2) during which the deficiency that is the basis for a determination under subsection (b)(1)(I) exists.

(C) Suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determination under paragraph (I) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

(4) PROCEEDINGS.—The provisions of sections 1128A (other than subsections (a) and (b)) and (2)(A) or (3)(A) in the same manner as they apply to civil money penalties or proceeding under section 1128A(a).

SEC. 1895R. TEMPORARY CERTIFICATION PROCESS FOR COORDINATED CARE PLANS.

(a) FEDERAL ACTION ON CERTIFICATION.—

(1) IN GENERAL.—If—

(A) a State fails to substantially complete an action on a licensing application of a coordinated care plan sponsor within 90 days of receipt of the completed application, or

(B) a State denies a licensing application and the Secretary determines that the State’s licensing standards or review process create an unreasonable barrier to market entry, the Secretary shall evaluate such application pursuant to the procedures established under subsection (b).

(2) UNREASONABLE BARRIERS TO MARKET ENTRANCE.—If the Secretary finds that an unreasonable barrier to market entry under paragraph (1)

(A) they are applied consistently to all coordinated care medicare choice plan applications,

(b) they are not directly in conflict, or inconsistent with, the Federal standards.

(a) FEDERAL CERTIFICATION PROCEDURES.—

(1) IN GENERAL.—The Secretary shall establish a process for the certification of a coordinated care plan and its sponsor as meeting the requirements of this part in cases described in subsection (a).

(b) REQUIREMENTS.—Such process shall—

(A) set forth the standards for certification,

(b) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application.

(c) provide that State law and regulations shall apply to the extent they have not been found to conflict with or to be inconsistent with the requirements of this part, to the extent they apply to plans sponsored by the Secretary, and to the extent they apply to plans certified by the Secretary.

(d) require any person receiving a certificate to provide the Secretary with all reasonable information in support of such certification.

(3) EFFECT OF CERTIFICATIONS.—

(A) IN GENERAL.—A certificate under this section shall remain in effect for more than 36 months and may not be renewed.

(B) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under subsection (a) during the period the certificate is in effect.

(C) SUNSET.—No certificate shall be issued under this section after December 31, 2000, and no certificate under this section shall remain in effect after December 31, 2001.

(5) EFFECTIVE DATE.—The amendments made by this subsection apply only with respect to contracts effective on and after January 1, 1997.
percentage increase which the Secretary estimates will occur in Medicare expenditures per capita for 1995 over Medicare expenditures per capita for 1994.

(c) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than April 1 of the year after the date of the enactment of this Act.

Subchapter B—Tax Provisions Relating to Medicare Choice Plans

SEC. 1379F. MEDICARE CHOICE ACCOUNTS

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 1372 as 1372A, and by inserting after section 1372 the following new section:

"SEC. 1372. MEDICARE CHOICE ACCOUNTS.

"(a) EXCLUSION.—(1) In general.—Gross income shall not include any payment to the Medicare choice account of an individual by the Secretary of Health and Human Services under section 1855(b)(2) of the Social Security Act.

"(2) No constructive receipt.—No amount shall be included in the gross income of an individual solely because the individual may choose between—

"(A) the payment described in paragraph (1) or a rebate under section 1855(b)(2) of the Social Security Act, or

"(B) the payment of the individual's premium for supplemental benefits described in section 1857(a) of such act as such rebate.

"(b) Definitions.—For purposes of this section—

"(1) MEDICARE CHOICE ACCOUNT.—The term "Medicare choice account" means a trust created in section 816. or another person who demonstrates the trust to be consistent with the requirements of this section.

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED.—Subparagraph (A) shall apply to any account assets which are distributed out of a Medicare choice account to an account beneficiary which is used exclusively to pay qualified medical expenses shall not be includible in gross income. Any amount paid or distributed out of a Medicare choice account to an account beneficiary which is used exclusively to pay qualified medical expenses shall be included in the gross income of the account beneficiary.

"(3) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—(A) In general.—If a Medicare choice account is used in violation of paragraph (2) for any taxable year, the tax imposed by this chapter on such account shall cease to be a Medicare choice account as of the date of death, and any amount equal to the fair market value of a deceased individual's Medicare choice account on such date shall be includible—

"(i) if such person is not the estate of such beneficiary, in that person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such beneficiary, in such beneficiary's gross income for the taxable year which includes such date.

"(B) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account beneficiary's interest in a Medicare choice account which is payable to (or for the benefit of) any person other than such beneficiary's spouse upon such person's death the following rules shall apply—

"(i) such account shall cease to be a Medicare choice account as of the date of death, and

"(ii) any amount equal to the fair market value of such account as of the close of each calendar year, and

"(B) contributions, distributions, and other transfers of the account as of the date of death shall be includible.

"(c) TAX ON PROHIBITED TRANSACTIONS.—(1) REPORTS.—The reports required by this Act shall be furnished to the account beneficiary with respect to—

"(A) the fair market value of the assets in such account as of the close of each calendar year, and

"(B) contributions, distributions, and other transfers of such account as of the date of death shall be includible.

"(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account beneficiary as required by this section.

"(d) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT BENEFICIARY.—(1) General.—When an account beneficiary dies, the following rules shall apply—

"(A) such account shall cease to exist as a Medicare choice account.

"(B) contributions, distributions, and other transfers of such account as of the date of death shall be includible.

"(2) Termination.—The Medicare choice account shall cease to exist as a Medicare choice account—

"(A) when an account beneficiary dies, or

"(B) when such account has ceased to be a Medicare choice account as of the date of death of any individual who is the account beneficiary.

"(3) Penalties.—When an account beneficiary dies, the account beneficiary's right to receive any distributions from such account shall cease.
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(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(9) SPECIAL RULE FOR MEDICARE CHOICE ACCOUNTS.—An individual for whose benefit a Medicare choice account (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which may otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a Medicare choice account by reason of the application of section 137(c)(2) to such account.

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

(A) a trust described in section 497(a) which forms a part of a plan, or a plan described in section 495(a), which trust or plan is exempt from tax under section 501(a),

(B) an individual retirement account described in section 497(a),

(C) an individual retirement annuity described in section 498(b),

(D) a Medicare choice account described in section 137(b), or

(E) an account, or annuity which, at any time, has been determined by the Secretary to be in any preceding subparagraph of this paragraph.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7007. REPORTS INCLUDED IN GROSS INCOME.

(a) In general.—Section 4970 of the Internal Revenue Code of 1986 (relating to annuity contracts) is amended by inserting paragraph (14) after paragraph (13), inserting the following new subclauses:

(15) if with respect to such transaction, the account ceases to be a Medicare choice account by reason of the application of section 137(c)(2) to such account.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

CHAPTER 2—PROVISIONS RELATING TO PART A

Subchapter A—General Provisions Relating to Part A

SEC. 7011. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(ii) of title 42, United States Code (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended by inserting paragraph (15) and inserting the following new subclauses:

(15) for fiscal years 1996 through 2002 for hospitals for which "(aa) the market basket percentage increase minus 2.5 percentage points, or

(bb) 1.1 percent (1.3 percent for discharges during fiscal year 1996 and 1.2 percent for discharges during fiscal year 1997), and

(bb) for fiscal years 2003 and subsequent fiscal years for hospitals in all areas, the market basket percentage increase.

SEC. 7012. PPS-EXEMPT HOSPITAL PAYMENTS.

(a) UPDATE.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) of title 42, United States Code (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subsection (V)—

(i) by striking "1997" and inserting "1993"; and

(ii) by striking "and" at the end.

(B) by redesignating subsection (VI) as subsection (VII); and

(ii) by striking "and" at the end.

(2) DEVELOPMENT OF SYSTEM FOR REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3)(B)(ii) of title 42, United States Code (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively,

(2) by inserting "(i)" after "(I)"; and

(3) by adding at the end the following new clause:

"(III) Notwithstanding clause (i), in the case of a hospital which has an average inpatient length of stay of greater than 25 days—

(I) which first receives payments under this section as a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(1)(B)) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this subparagraph for all rehabilitation hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

(ii) which first receives payments under this section as a hospital described in subsection (I) on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(II) the applicable reduction with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for each percentage point by which the applicable reduction adjustment percentage for the fiscal year is less than 10 percentage points.

(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTED AND CRITICAL IUMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking paragraph "(B) in subsection (IV)" and inserting "(B)(i) and (ii).".


(1) by redesigning clauses (I) and (II) as clauses (I) and (II), respectively,

(2) by inserting "(i)" after "(I)"; and

(3) by adding at the end the following new clause:

"(III) Notwithstanding clause (i), in the case of a rehabilitation hospital (or unit thereof) which first receives payments under this section—

(I) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

(ii) which first receives payment under this section as a hospital described in subsection (I) on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(IV) The Secretary shall, if the Secretary determines it is appropriate, calculate and implement a separate ceiling under clause (ii) based on case-mix and DRG category.
SEC. 7011. ADJUSTMENT IN AN AMOUNT EQUAL TO THE AMOUNT DETERMINED UNDER CLAUSE (IV) FOR CAPITAL-RELATED TAX COSTS.


(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply on and after October 1, 1996.

(c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(d)(1)(B) (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) by redesignating subparagraph (A) as subparagraph (B); and

(2) by inserting after subparagraph (B) the following new subparagraph:

`(c) For discharges occurring during the fiscal year after September 30, 1997, 85 percent in fiscal year 1998, 80 percent in fiscal year 1999, and 75 percent in fiscal years 2000, 2001, and 2002; and

(3) by adding at the end the following new clause:

`(A) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) by inserting after subparagraph (A) the following new paragraph:

`(B) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) by amending subparagraph (B) by inserting after subparagraph (A) the following new subparagraph:

`(C) For discharges occurring during the fiscal year after September 30, 1997, 85 percent in fiscal year 1998, 80 percent in fiscal year 1999, and 75 percent in fiscal years 2000, 2001, and 2002; and

(2) by adding at the end the following new clause:

`(A) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) by redesignating subparagraph (B) as subparagraph (A); and

(2) by inserting after subparagraph (A) the following new subparagraph:

`(B) In determining the amount of the adjustment required under such clause, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

(c) IN GENERAL.—Section 1886(d)(1)(A) (42 U.S.C. 1395ww(d)(1)(A)) is amended—

(1) by amending—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under clause (i), the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(2) by inserting after subparagraph (A) the following new subparagraph:

`(B) The Secretary shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by the percentage of the payments required to be paid under clause (i) for a fiscal year that exceeds 85 percent in fiscal year 1996, 80 percent in fiscal year 1997, 75 percent in fiscal year 1998, and 70 percent in fiscal year 1999.

(3) by inserting after subparagraph (B) the following new subparagraph:

`(C) In determining the adjustment required under such clause, the Secretary shall consider the extent to which such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(4) by inserting after subparagraph (C) the following new subparagraph:

`(D) In determining the adjustment required under such clause, the Secretary shall consider the extent to which such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating subparagraph (B) as subparagraph (A); and

(2) by inserting after subparagraph (A) the following new subparagraph:

`(B) Subject to clause (ii), a hospital is eligible for such adjustment if—

(i) the hospital has obtained a certificate of need for the current fiscal year, or for such period as may be applicable to such hospital, and such certificate is in effect on September 1, 1995;

(ii) the hospital has a system in place, as determined by the Secretary, that adequately tracks patient requirements, including recommendations for prospective payment systems, and the hospital has provided such recommendations for a prospective payment system for such hospital services furnished during fiscal years 1990 through 1997; and

(iii) the hospital has obtained a certificate of need for the current fiscal year, or for such period as may be applicable to such hospital, and such certificate is in effect on September 1, 1995.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(4) by inserting after subparagraph (C) the following new subparagraph:

`(D) The system under the program provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exception process described in section 1886(d)(1)(D) for fiscal years 1996 through 1997.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating subparagraph (B) as subparagraph (A); and

(2) by inserting after subparagraph (A) the following new subparagraph:

`(B) The Secretary shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by the percentage of the payments required to be paid under clause (i) for a fiscal year that exceeds 85 percent in fiscal year 1996, 80 percent in fiscal year 1997, 75 percent in fiscal year 1998, and 70 percent in fiscal year 1999.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.

(c) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended by—

(1) redesignating—

(A) the first sentence, for discharges occurring after September 30, 1996, by striking "1991" and inserting "1992"; and

(B) the following new sentence: "In determining the adjustment required under such clause, the Secretary shall take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similiar commercial purposes.
to the nth power) – 1, where \( r \) is the ratio of the hospital's full-time equivalent interns and residents to beds and \( n \) equals .405. For discharges occurring on or after—

[(I) May 1, 1986, and before October 1, 1995, \( c \) is equal to 1.89.

(II) October 1, 1995, and before October 1, 1996, \( c \) is equal to 1.65.

(III) October 1, 1996, and before October 1, 1997, \( c \) is equal to 1.68.

(IV) October 1, 1997, and before October 1, 1998, \( c \) is equal to 1.33; and

(V) October 1, 1998, and before October 1, 1999, \( c \) is equal to 1.23.]


SEC. 7018. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE PAYMENTS

Section 1896 (42 U.S.C. 1395vv) is amended by adding at the end the following new subsection:

“(1) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

“(a) IN GENERAL.—For discharges occurring on or after January 1, 1996, and before October 1, 1997, the Secretary, in consultation with State Medicare agencies, may determine, in the case of rural hospital extended care services consisting of any service that is not a covered non-routine service, that the hospital shall receive payment for each discharge occurring on or after the date of this section, at levels such that, in aggregate, the hospital would receive for each discharge under paragraphs (d)(3)(A), (d)(3)(B), and (d)(4) of section 1888 of the Act, and section 4251(d) of the Balanced Budget Reconciliation Act of 1995 (42 U.S.C. 13061d) is amended by adding—

“(a) IN GENERAL.—For purposes of paragraph (1), the applicable percentage is—

“(A) for calendar year 1997, 50 percent; and

“(B) for calendar years after 1997, 100 percent.”

SEC. 7017. PAYMENTS FOR HOSPICE SERVICES

Section 1814(b)(1)(C)(i) (42 U.S.C. 1395tbb(b)(1)(C)(i)) is amended by striking subparagraphs (IV), (V), and (VI), and inserting the following subclauses:

“(IV) for each of fiscal years 1996 through 2000, 80 percent;

“(aa) the market basket percentage increase for the fiscal year minus 2.5 percentage points, or

“(bb) 1.1 percent (1.1 percent in fiscal year 1996 and 1.2 percent in fiscal year 1997); and

“(V) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.”

SEC. 7018. EXTENDING MEDICARE COVERAGE OF AND APPLICATION OF HOSPITAL IN PATIENT TAX TO ALL STATE AND LOCAL GOVERNMENT EMPLOYEES

(a) IN GENERAL.—

(1) The Internal Revenue Code of 1986 is amended by adding after section 119 the following new section:

“Section 119A. —

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by striking paragraph (2) and inserting—

“(2) The definition of ‘employee’ also means any State or local government employee who is a covered non-routine service employee.”

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1995.

SEC. 7019. TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES

(a) IN GENERAL.—

(1) The amendments made by this subsection shall apply to services performed after December 31, 1995.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply after December 31, 1995.

SEC. 7020. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN SURVEYS


SEC. 7021. COST-EFFECTIVE MANAGEMENT OF COVERED NON-Routine SERVICES

(a) IN GENERAL.—The amendments made by this subsection shall apply after December 31, 1995.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply after December 31, 1995.

SEC. 7022. COST-EFFECTIVE MANAGEMENT OF COVERED NON-Routine SERVICES

(a) IN GENERAL.—The amendments made by this subsection shall apply after December 31, 1995.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply after December 31, 1995.

SEC. 7023. COST-EFFECTIVE MANAGEMENT OF COVERED NON-Routine SERVICES

(a) IN GENERAL.—The amendments made by this subsection shall apply after December 31, 1995.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply after December 31, 1995.
(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

(B) Prescription drugs.

(C) Complex medical equipment.

(D) Intravenous therapy and solutions (including parenteral and enteral nutrition, supplies, and equipment).

(E) Radiation therapy.

(2) Diagnostic services, including laboratory, radiology, including computerized tomography services and imaging services, and pulmonary services.

(3) SNF market basket percentage increase. The term "SNF market basket percentage increase" for a fiscal year means a percentage change in the price change in routine service cost indexes for the year.

(3) Stay.—The term "stay" means, with respect to an individual who is a resident of a skilled nursing facility, the number of days during which the facility provides extended care services for which payment may be made under this title for the individual during the period for which payment was made under part D during the period after 1997.

(4) New payment method for covered non-routine services beginning in fiscal year 1998.—

(a) In general.—The payment method established under this section shall apply with respect to covered non-routine services furnished during a cost reporting period (or portions of cost reporting periods) beginning on or after October 1, 1995, and thereafter.

(b) Interim payments.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period (or portions of cost reporting periods) beginning on or after October 1, 1995, and thereafter.

(c) Responsibility of skilled nursing facility to manage billings.—

(A) Clarification relating to part A billing.—A skilled nursing facility receiving non-routine services furnished by an individual to whom the service is furnished is a resident of a skilled nursing facility, under any other contracting or consulting arrangement, or otherwise.

(B) Part B billing.—In the case of a covered non-routine service furnished to an individual under this title for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise.

(c) No payment in excess of product of fiscal year 1996 per stay amount for facility per stay amount for intensive need residents.—

(A) In general.—The payment method established under this section shall apply with respect to covered non-routine services furnished by the facility, under any other contracting or consulting arrangement, or otherwise.

(B) New payment method for covered non-routine services beginning in fiscal year 1998.—

(a) In general.—The payment method established under this section shall apply with respect to covered non-routine services furnished during a cost reporting period (or portions of cost reporting periods) beginning on or after October 1, 1995, and thereafter.

(b) Interim payments.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period (or portions of cost reporting periods) beginning on or after October 1, 1995, and thereafter.

(c) Responsibility of skilled nursing facility to manage billings.—

(A) Clarification relating to part A billing.—A skilled nursing facility receiving non-routine services furnished by an individual to whom the service is furnished is a resident of a skilled nursing facility, under any other contracting or consulting arrangement, or otherwise.

(B) Part B billing.—In the case of a covered non-routine service furnished to an individual under this title for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise.

(d) Part B amount for fiscal year 1998 and subsequent fiscal years.—The per stay amount for a skilled nursing facility for the 12-month cost reporting period beginning during fiscal year 1997 is the facility-specific stay amount for the facility (as described in subsection (b)) increased by the greater of—

(i) the product of—

(A) the per stay amount applicable to the facility under subsection (d) (for the period), and

(B) the number of stays beginning during the period for which payment was made to the facility for such services.

(ii) the prospective reduction in payments.

In addition to the process for reducing payments described in clause (i), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under this paragraph for the facility.

(2) Determination of facility-stay amount.—The Secretary shall adjust payments made under part B during the period for covered non-routine services furnished to an individual under arrangement with the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary, divided by—

(a) the average number of days per stay for all residents of the skilled nursing facility.

(b) Per stay amount for intensive need residents.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater than or less than total payments for such services would have been but for the application of paragraph (1).

(g) Exemptions and adjustments to amounts under this section.—

(A) The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

(B) Budget neutrality.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

(Volume skilled nursing facilities.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE PERIODS BEGINNING DURING THE FISCAL YEAR 1993.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(i) BASED UPON PER DIEM COST LIMITS ON DURING FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end of the following: ‘‘except that such limitations do not apply to expenditures for ‘skills’: non-routine services for 1994 and fiscal year 1995.’’

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not be permitted to adjust the per diem cost limits under section 1888(a) (42 U.S.C. 1395yy(a)) for fiscal year 1995.

(ii) ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(A) by striking '(c) The Secretary and inserting ‘(c) The Secretary and section 1886, 1887A, 1888, 1888A, and 1888G’;

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7032 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1889(c)(1)(E) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES NOT INCLUDED IN THE PAYMENT SYSTEM.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1814(b) (42 U.S.C. 1395f(b)) is amended—

(A) by striking ‘‘(D) and’’ and inserting ‘‘(D)’’;

(b) by striking the period at the end of paragraph (1) and inserting ‘‘and’’;

(c) by striking ‘‘(E)’’ and inserting ‘‘(E)’’;

(d) by striking the period at the end of paragraph (2) and inserting ‘‘and’’;

(e) by striking the period at the end of paragraph (3) and inserting ‘‘and’’;

(f) by striking the period at the end of section 1814(b) and inserting ‘‘and’’;

(g) by striking the period at the end of section 1814(c) and inserting ‘‘and’’;

(h) by striking the period at the end of section 1814(d) and inserting ‘‘and’’.

SEC. 7036. MAINTAINING SAVINGS RESULTING FROM FISCAL YEAR 1993.—

(a) IN GENERAL.—The prospective payment system established under section 1889 of the Social Security Act as added by section 7032, as if salary equivalence guidelines were in effect for occupational, physical, respiratory, and speech pathology services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

(b) REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall transmit to Congress a report on the system under which payment is made under the Medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1889 of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the Medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in this section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the Medicare program.

(3) An analysis of the desirability of maintaining a separate routine cost limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the Medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7032) on the quality of, and cost of, extended care services furnished by skilled nursing facilities.

SEC. 7039. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

CHAPTER 3—PROVISIONS RELATING TO THE BUDGETARY IMPACT

SEC. 7041. PAYMENTS FOR PHYSICIANS’ SERVICES.

(a) ESTABLISHING UPDATE TO CONVERT TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) Section 1832(a)(1) (42 U.S.C. 1395f(a)(1)) is amended by striking ‘‘(D)’’ and inserting ‘‘(2) and section 1842(b)(6)(E)’’;

(2) REDUCTIONS IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1841(v)(1) (42 U.S.C. 1395v(v)(1)) is amended by striking ‘‘(a)(1)(A)’’ as added by section 1888A(a)(1) and inserting ‘‘(a)(1)’’ and ‘‘(a)(2)’’.

(b) 1888A,

SEC. 7032. IN GENERAL.—Not later than April 15 of each year, the Secretary shall submit to Congress a report that includes a recommendation on the appropriate update in the conversion factor for all physicians that is consistent with the definition of such factor in section 1842(b)(1)(A) in the following year. In making the recommendation, the Secretary shall consider—

(1) the estimated increase in the medicare economic index (as described in the fourth sentence of section 1842(b)(1)(A)) for that year,
(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (C)(1) of subsection (d) for fiscal year 1996, and

(iii) access to services.

"(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Payment Review Commission shall take into account—

(i) unexpected changes by physicians in response to the implementation of the fee schedule;

(ii) unexpected changes in outlay projections;

(iii) changes in the quality or appropriateness of care; and

(fourth other relevant factors not measured in the resource-based payment methodology; and

(iv) changes in volume or intensity of services.

"(C) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the report submitted under subparagraph (A) in each year and shall submit to the Congress, by not later than May 15 of the year, a report including its recommendations respecting the update in the conversion factor for the following year.

(2) UPDATE.—Section 1848(d)(3) (42 U.S.C. 1395w-4(d)(3)) is amended to read as follows:

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of subparagraphs (B) and (C), for fiscal year ending with June 30, 1995, the Secretary shall determine the update to the conversion factor for 1996 as follows:

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(ii) less than 93 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

"(B) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(d)(4) (42 U.S.C. 1395w-4(d)(4)) is amended and read as follows:

"(1) SUSTAINABLE GROWTH RATE.—

"(i) PROCESS FOR ESTABLISHING SUSTAINABLE GROWTH RATE OF INCREASE.—

"(A) SECRETARY'S RECOMMENDATION.—By not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a recommendation on the sustainable growth rate for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with organizations representing physicians and shall consider—

"(1) inflation;

"(ii) changes in numbers of enrollees (other than private plan enrollees) under this part, in the age composition of enrollees (other than private plan enrollees) under this part,

"(iii) changes in technology,

"(iv) evidence of inappropriate utilization of services,

"(v) evidence of lack of access to necessary physicians' services, and

"(vi) such other factors as the Secretary considers appropriate.

"(B) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the recommendation transmitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 15 of the year, respecting the sustainable growth rate for the fiscal year beginning in that year.

"(C) PUBLICATION OF SUSTAINABLE GROWTH RATE.—The Secretary shall have to the sustainable growth rate published in the Federal Register, in the last 15 days of October of each year (beginning with 1996), plus 2 percent points, and

"(D) RESTRICTION ON ACTUAL EXPENDITURES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), performed by or on behalf of physicians, that are commonly specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

"(E) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare choice plan offered under part D or through enrollment with an eligible organization with a risk-sharing contract under section 1877.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES EXCLUDED FROM PHARMACISTS' SERVICES.—The term 'pharmacist's services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), performed by, or under the supervision of, a pharmacist, that are commonly performed or furnished by a pharmacist or in a pharmacist's office, but does not include services furnished to a private plan enrollee.

"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare choice plan offered under part D or through enrollment with an eligible organization with a risk-sharing contract under section 1877.

"(4) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

"(A) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

"(i) by redesignating subparagraph (C) as subsection (D) and

"(ii) by inserting after subparagraph (B) the following new subparagraph:

"(3) special rule for 1996.—For 1996, the conversion factor under this subsection shall be $33.42 for all physicians' services.

"(B) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

"(A) by striking "for factors" each place it appears in subsection (d)(1)(A) and (d)(1)(C)(i).

"(B) in subsection (d)(1)(A), by striking 'or updates'; and

"(C) in subsection (d)(1)(C), by striking "and conversion factors" and inserting "the conversion factor".

"SEC. 7942. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUT-PATIENT HOSPITAL SERVICES.

"(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1385(i)(1)(B)(i)(II) (42 U.S.C. 1395w-2(i)(1)(B)(i)(II)) is amended—

"(1) by striking 'of 80 percent'; and

"(2) by striking the period at the end and inserting the following: "less than the amount a provider may charge as described in clause (ii) of section 1861(a)(2)(A).

"(b) RADIODOGOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1395f(n)(1)(B)(i)(II) (42 U.S.C. 1395f(n)(1)(B)(i)(II)) is amended—

"(1) by striking "of 80 percent"; and

"(2) by striking the period at the end and inserting the following: "less than the amount a provider may charge as described in clause (ii) of section 1861(a)(2)(A)."
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring during fiscal years 1996 through 2002. The Secretary shall not recognize any costs included in costs reported for fiscal years 1996 through 2002. PART B PREMIUM.

(a) IN GENERAL.—If this section applies to an individual for any calendar year, the monthly premium otherwise applicable under section 1839 for each month of the calendar year shall be increased by an amount equal to the amount determined under section 1839A in respect of such individual for such month.

(b) MODIFIED ADJUSTED GROSS INCOME.—This section shall not apply to any individual whose modified adjusted gross income does not exceed the threshold amount determined under section 1839A.

(c) EFFECTIVE DATE.—This section shall apply on a retroactive basis to any individual for any calendar year beginning after the year that includes October 30, 1995.
(2) INDIVIDUALS NOT FILING ENROLLMENT FORM.—If an individual does not file a Medicare enrollment form for any enrollment period applicable to the individual's coverage under this part, the individual's coverage begins on the first day of the following month and ending on the date the portion is paid. For purposes of this section, an enrollment form may be filed by such individual if the Secretary, upon written request from the Secretary of Health and Human Services, discloses to the Secretary with respect to any Medicare beneficiary (as defined in paragraph (1) of section 1839A), or by any other Federal agency or the head of any other appropriate Federal agency under which such agency performs administrative responsibilities under this section, the information available to the Secretary from prior enrollment forms, the Secretary of the Treasury under section 6101(d)(15), or, alternatively, by any Federal agency or the head of any other appropriate Federal agency under which such agency performs administrative responsibilities under this section.

(3) DISCLOSURE OF INFORMATION.—The Secretary shall notify the applicable agency under section 1840 of—

(A) the estimates received under paragraph (1) or (2); and

(B) the amount of the premiums to be deducted under section 1840.

(4) TRANSFER OF INFORMATION.—The Secretary shall notify the applicable agency under section 1840 of—

(A) the estimated adjusted gross income, debased, that shall be the basis of the information obtained from the Secretary of the Treasury.

(a) TRANSFER OF INFORMATION.—The Secretary shall notify the applicable agency under section 1840 of—

(A) the estimated adjusted gross income, debased, that shall be the basis of the information obtained from the Secretary of the Treasury.

(b) DISCLOSURE OF INFORMATION.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary with respect to any Medicare beneficiary (as defined in paragraph (1) of section 1839A) or any other Federal agency if an agreement under section 1839A(e)(3) of the Social Security Act is in effect for the purpose of, and to the extent necessary in, establishing an individual's correct supplemental Medicare part B premium under section 1839A of the Act.

(c) DEFINITIONS.—For purposes of this paragraph, the term used with respect to section 1839A of the Social Security Act shall have the meaning given such term by such section.

(d) CONFORMING AMENDMENTS.—(1) The Secretary may enter into agreements with the Com-

(2) The Secretary may enter into agreements with the Com-
CHAPTER 4—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—General Provisions Relating to Parts A and B

SEC. 7065. SECONDARY PAYER PROVISIONS.


(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1882(h)(1)(C) (42 U.S.C. 1395hh(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998; and"

and before October 1, 1998.

(c) BURIAL BENEFIT.—Section 1861(a)(20) (42 U.S.C. 1395(a)(20)) is amended by inserting the following new subsection:

"(2) In the case of a covered individual who died on or after October 1, 1998, the Secretary shall, subject to paragraph (3), establish a burial payment rate for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(3) PAYMENT.—Except as provided in paragraph (2), the Secretary shall, in accordance with the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual, establish a burial payment rate for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(d) MORTALITY DATA.—Section 1861(a)(20) (42 U.S.C. 1395(a)(20)) is amended—

(1) in the last sentence by striking "October 1, 1998; and"

and before October 1, 1998.

(e) BURIAL PAYMENT.—Section 1861(a)(20) (42 U.S.C. 1395(a)(20)) is amended by striking the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual.

(f) AMENDMENT.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 7066. BURIAL PAYMENT FOR VETERANS, INDIVIDUALS WITH DISEASES OF THE BLOOD, AND INDIVIDUALS WITH END STAGE RENAL DISEASE.

(a) IN GENERAL.—In the case of a covered individual who died on or after October 1, 1998, the Secretary shall, subject to paragraph (3), establish a burial payment rate for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(b) PAYMENT.—Except as provided in paragraph (3), the Secretary shall, in accordance with the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual, establish a burial payment rate for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(c) BURIAL PAYMENT.—Section 1861(a)(20) (42 U.S.C. 1395(a)(20)) is amended by striking the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual.

(d) AMENDMENT.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 7067. PAIN RELIEF.—In the case of a covered individual who died on or after October 1, 1998, the Secretary shall, subject to paragraph (3), establish a payment rate for pain relief for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(b) PAYMENT.—Except as provided in paragraph (3), the Secretary shall, in accordance with the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual, establish a payment rate for pain relief for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(c) AMENDMENT.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 7068. BURIAL PAYMENT FOR VETERANS, INDIVIDUALS WITH DISEASES OF THE BLOOD, AND INDIVIDUALS WITH END STAGE RENAL DISEASE.

(a) IN GENERAL.—In the case of a covered individual who died on or after October 1, 1998, the Secretary shall, subject to paragraph (3), establish a burial payment rate for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(b) PAYMENT.—Except as provided in paragraph (3), the Secretary shall, in accordance with the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual, establish a burial payment rate for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(c) AMENDMENT.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 7069. PAIN RELIEF.—In the case of a covered individual who died on or after October 1, 1998, the Secretary shall, subject to paragraph (3), establish a payment rate for pain relief for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(b) PAYMENT.—Except as provided in paragraph (3), the Secretary shall, in accordance with the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual, establish a payment rate for pain relief for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(c) AMENDMENT.—The amendments made by this section shall take effect on October 1, 1997.

SEC. 7070. PAIN RELIEF.—In the case of a covered individual who died on or after October 1, 1998, the Secretary shall, subject to paragraph (3), establish a payment rate for pain relief for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(b) PAYMENT.—Except as provided in paragraph (3), the Secretary shall, in accordance with the last sentence of section 1861(a)(20) (42 U.S.C. 1395(a)(20)) for the fiscal year beginning with the fiscal year of the death of the covered individual, establish a payment rate for pain relief for the covered individual for the fiscal year beginning with the fiscal year of the death of the covered individual.

(c) AMENDMENT.—The amendments made by this section shall take effect on October 1, 1997.
"(A) PAYMENTS IN EXCESS OF LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a case-mix category in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall, in such manner as the Secretary deems appropriate, reduce the payments under this subsection to the home health agency in the following fiscal year by the amount of such payments.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—In general.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (a) if the episode is interrupted by the beginning of a new episode.

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (I) shall not apply if the agency has not obtained a physician certification in respect of the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and that home health services furnished during such visits.

"(C) SHARE OF SAVINGS.—(i) In general.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the prior year without regard to clause (ii).

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(D) MEDICAL REVIEW PROCESS.—(1) IN GENERAL.—The Secretary shall implement a medical review process with a particular emphasis on audits of fiscal years 1997 and 1998 for the purpose of ensuring that payments are made under this section to ensure that such individual's receive appropriate home health services.

"(7) The geographic areas used to determine the per episode payment under this section by—

"(A) MEDICAL REVIEW PROCESS.—(1) IN GENERAL.—The Secretary shall implement a medical review process with a particular emphasis on audits of fiscal years 1997 and 1998 for the purpose of ensuring that payments are made under this section to ensure that such individual's receive appropriate home health services.

"(B) MEDICAL REVIEW PROCESS.—(1) IN GENERAL.—The Secretary shall implement a medical review process with a particular emphasis on audits of fiscal years 1997 and 1998 for the purpose of ensuring that payments are made under this section to ensure that such individual's receive appropriate home health services.

"(C) CONFORMING AMENDMENTS.—(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(k)(1)) is amended—

"(i) by inserting "and prosthetics and orthotics after "durable medical equipment";

"(ii) by inserting "and 1398(h), respectively" after "1398(a)(1)(C)

"(2) CONFIRMING AMENDMENTS.—(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(k)(1)) is amended—

"(i) by inserting "and 1384(h), respectively" after "1384(a)(1)(C)

"(ii) by inserting "and 1384(h), respectively" after "1384(a)(1)(C)

"(3) WHETHER A CAPITATED PAYMENT FOR HOME CARE PATIENTS RECEIVING CARE DURING A CONTINUOUS PERIOD EXCEEDING 165 DAYS IS WARRANTED.—The Secretary may provide that providers of service are adequately reimbursed.

"(4) ON THE ADEQUACY OF THE EXEMPTIONS AND EXCEPTIONS TO THE LIMITS PROVIDED UNDER SUBSECTION (b)(1)(E).—The Secretary may provide that providers of service are adequately reimbursed.

"(5) ON THE ADEQUACY OF THE EXEMPTIONS AND EXCEPTIONS TO THE LIMITS PROVIDED UNDER SUBSECTION (b)(1)(E).—The Secretary may provide that providers of service are adequately reimbursed.

"(6) THE APPROPRIATENESS OF THE METHODS PROVIDED UNDER THIS SUBSECTION TO ADJUST THE PER EPISODE LIMITS AND ANNUAL PAYMENT UPDATES TO REFLECT CHANGES IN THE MIX OF VISITS, NUMBER OF VISITS, AND ASSIGNMENT TO CASE CATEGORIES TO REFLECT CHANGES IN THE MIX OF HOME HEALTH CARE.

"(7) THE GEOGRAPHIC AREAS USED TO DETERMINE THE PER EPISODE LIMITS.—The Secretary may provide that providers of service are adequately reimbursed.

"(8) ON THE ADEQUACY OF THE EXEMPTIONS AND EXCEPTIONS TO THE LIMITS PROVIDED UNDER SUBSECTION (b)(1)(E).—The Secretary may provide that providers of service are adequately reimbursed.

"(9) ON THE ADEQUACY OF THE EXEMPTIONS AND EXCEPTIONS TO THE LIMITS PROVIDED UNDER SUBSECTION (b)(1)(E).—The Secretary may provide that providers of service are adequately reimbursed.
("(i) that are a type of home health service described in section 1839(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency. The amount determined under section 1893;

(ii) that are not described in clause (i) (other than those involving the use of a drug) as defined in section 1811(kk)), the lesser of—

(1) the reasonable cost of such services, as determined in section 1861(a), or

(2) the customary charges with respect to such services:

(a) by striking "and" at the end of subparagraph (G); and

(b) by adding "or" at the end of the following new subparagraph:

"(G) with respect to items and services described in section 1861(a), or the lesser of—

(i) the reasonable cost of such services, as determined under section 1861(a); or

(ii) the customary charges with respect to such services,
or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, as determined in accordance with section 1814(d)(2)."

(III) EFFECTIVE DATE.—The amendments made by subsection (A) (other than those involving the use of a drug) and inserting "or" in clause (ii) of subparagraph (E) shall apply to payments made under this provision, free of charge or at nominal charges to the public, for supplies or services furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of patients are low-income (and requests that payment be made under this provision), on or before October 1, 1996.

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MAINTAINED.—

(I) IN GENERAL.—The first sentence of section 1842(b)(6), as amended by section 7035(a)(1), (42 U.S.C. 1395ww(b)(6)), is amended by striking "and" at the end of paragraphs (E) and (F) and inserting "(E) and (F) in the case of

(ii) by striking "and (E)" and inserting "(E)";

and

(II) by striking the period at the end of subparagraph (E) and inserting "and"

(III) by adding "or" at the end of the following new subparagraph:

"(E) in the case of

(1) (a) such a plan of care of the home health agency if the plan of care of the home health agency if the plan of care of a home health agency.

(2) any item or service furnished to an individual who requests that payment for such service be made under this provision, free of charge or at nominal charges to the public, for supplies or services furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, as determined in accordance with section 1814(d)(2).

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395w(a)), as amended by section 7035(a)(2)(C), is amended—

(a) by striking or at the end of paragraph (15);

(b) by striking the period at the end of paragraphs (16) and (17) and inserting "and"

(ii) by adding at the end the following new paragraph:

"(17) where such expenses are for home health services furnished to an individual who is under a plan of care of a home health agency if the claim for payment for such services is not submitted to the agency;

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1881(v)(1)(L) (42 U.S.C. 1395ww(v)(1)(L)) is amended by striking "only" for home health services furnished to an individual who is under a plan of care of a home health agency if the claim for payment for such services is not submitted to the agency; and

(4) TECHNICAL CORRECTION.—Section 1866(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), is amended by striking the period at the end of clause (i) and inserting "and by striking the following first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (A) shall apply to charges occurring on or after September 1, 1995.

SEC. 7023. DURABLE MEDICAL EQUIPMENT.
weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour re-

section to a case-by-case basis, except in so-

the facility need not meet hospital stand-

in the facility pursuant to subsection (d)(2)(B)(iii).

itself as a critical access hospital.

and facilities as determined under clause (ii) and must have nursing services avail-

in a rural area, except that—

subject to the oversight of a physician who need

of facilities as determined under clause (ii), and

paragraph (2) of section 1861(aa).

in a rural health network that is a member of the network.

with at least 1 hospital that is a member of the network.

and subsection (c)(1) and paragraph (3) of such sub-

and amount as critical access hospital certified by

the Secretary under subsection (I) receives

ilities in accordance with subparagraph (B) for

and paragraph (3) of such subsection.

The Secretary shall award grants to States that have submitted applications in ac-

rate the same manner and amount as critical access hospital certified by

in accordance with the paragraph if the State

in such form as the Secretary may require an

application containing the assurances described in

the Secretary for designation as a critical access hospital.

at the time

the facility is the reasonable costs of the criti-

with paragraph (A)(ii) and (B) of such sub-

in subsection (I) (A), by striking "rural pri-

(1) IN GENERAL—The Secretary may award grants to

the Secretary under this section prior

it shall receive payment under this title in the same manner

in subsection (a)(8) by striking "rural pri-

The first sentence of section 1864(a) (42

the first time used for the furnishing of extended care services, except that

the furnishing of such services may not exceed 12 beds (minus the number of beds used for the furnishing of

The term "critical access hospital" means any facility certified by the Secretary as a critical access hospital.

the term "critical access hospital services" means items and services, furt-

inpatient critical access hospital services each place it appears, and inserting

for purposes of the section, the term "rural health network" means,

The term "critical access hospital" means—

(3) The term "inpatient critical access hospital services" means items and services, furt-

inpatient critical access hospital services each place it appears, and inserting

"inpatient critical access hospital services" each place it appears.

(2) The term "rural primary care hospital services" and inserting "inpatient critical access hospital services

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(iv) in subsection (f)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(iv) in subsection (g)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(2) Section 1395w(d)(5)(B) (42 U.S.C. 1395w(d)(5)(B)) is amended by striking "rural primary care hospital" and inserting "critical access hospital services"; and

(2) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital" and inserting "critical access hospital services".

(3) Section 1395dd(e)(5)(C) (42 U.S.C. 1395dd(e)(5)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital services".

(4) In Section 1395dd(e)(5)(A)(ii) (42 U.S.C. 1395dd(e)(5)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital services".

(5) In Section 1395k(a) (2) (42 U.S.C. 1395k(a) (2)) is amended—

(ii) in subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital services";

(G) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

(SECT. 7072. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(A) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended in paragraph (6), by striking "rural primary care hospital services is the reasonable costs of the critical access hospital in providing such services." and inserting "critical access hospital services is the reasonable costs of the critical access hospital in providing such services.";

(B) Section 1842(1) (42 U.S.C. 1395w(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(C) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395w(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital services"; and

(D) Section 1834(m) (42 U.S.C. 1395m(g)) is amended by striking at the end of the section the reference to "rural primary care hospital services" and inserting "critical access hospital services.

(E) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

(SECT. 7074. ADDITIONAL PAYMENTS FOR PHYSICIANS, SERVICES AND SUPPLIES FURNISHED IN SHORTAGE AREAS.

(A) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "18 percent" and inserting "20 percent".

(B) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services as defined in section 18421(o)"

(C) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(I) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area, in" and inserting "area, in or on behalf of a hospital located in a rural area, in".

(II) AREA DESIGNATION.—The amendment made by paragraph (I) shall apply to physicians
services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1999.

(d) REQUIREMENTS TO REPORT ON SERVICES Furnished.—Section 1842(b)(3) (42 U.S.C. 1395b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (I) and inserting "or" in its place; and

(2) by inserting after subparagraph (I) the following new subparagraph:

"(II) payment under this section may only be made on an assignment-related basis; and

(ii) the amounts paid under this section shall be equal to the lesser of the actual charge or 85 percent of the fee schedule amount, reduced by reductions for non-Federal payments or payments made under title XIX of the Social Security Act for services furnished in an outpatient or home setting, as described in subsection (c) of this section."
(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this Act, $100,000,000 for each of the fiscal years 1996 through 1998.

SEC. 7107. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS

Section 1817(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by striking at the end of the section the following new sentence: "The Secretary shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of Medicare patients and on actions necessary to make Medicare benefits available to such hospitals.

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7108. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud and Abuse Prevention Act of 1996".

Subchapter A—Fraud and Abuse Control Programs

SEC. 7109. FRAUD AND ABUSE CONTROL PROGRAM

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1395 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM—

SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse in the delivery of and payment for health care in the United States;

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of the barbs and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

(b) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(c) GUIDELINES.—

(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program pursuant to paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

(B) INFORMATION GUIDELINES.—

(U) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans pursuant to paragraph (2)).

(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is furnished and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care items and services.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1151(c) relating to limitation on liability shall apply to a provider furnishing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to require such reports as may be necessary to carry out the program established pursuant to this Act.

(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act or in any other Act (including the Inspector General Act of 1978 (5 U.S.C. App.)) shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and inspections relating to health care fraud and abuse control programs established under this Act.

(2) CREDITING.—Funds received by the Inspector General of the Department of Health and Human Services shall be credited to the account established by title XI of the Social Security Act, and shall be used for the costs of conducting investigations and inspections, as provided in paragraph (1) and other expenses incurred in the performance of duties under this section.

(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(i) a policy of health insurance;

(ii) a contract of a service benefit organization; and

(iii) a membership agreement with a health maintenance organization or other prepaid health plan.

(d) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395w-3) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be referred to as the 'Account'.

(2) APPROPRIATED AMOUNTS TO ACCOUNT.—

(A) In general.—There are hereby appropriated to the Trust Fund—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Trust Fund as provided in sections 1124(b) and 1124(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

(B) AUTHORITY FOR APPROPRIATIONS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconnected with the Trust Fund, for the benefit of the Account or any activity financed through the Account.

(C) TRANSFER OF ACCOUNT.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of—

(i) criminal fines recovered in cases involving a Federal health care offense (as defined in section 9815(a)(10)(B) of title 18, United States Code);

(ii) civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

(2) APPROPRIATED AMOUNTS TO ACCOUNT.—

(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Trust Fund as provided in sections 1124(b) and 1124(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

(B) AUTHORITY FOR APPROPRIATIONS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests unconnected with the Trust Fund, for the benefit of the Account or any activity financed through the Account.

(C) TRANSFER OF ACCOUNT.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of—

(i) criminal fines recovered in cases involving a Federal health care offense (as defined in section 9815(a)(10)(B) of title 18, United States Code);

(ii) civil monetary penalties and assessments imposed in health care cases; and

(iii) amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

(A) IN GENERAL.—There are hereby appropriated to the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be used only for such purposes and without further appropriation, in an amount—

(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not more than—

(U) for fiscal year 1996, $10,000,000.

(V) for fiscal year 1997, $14,000,000.

(VI) for fiscal year 1998, $16,000,000.

(ii) with respect to all activities (including criminal, civil, and administrative proceedings),

(U) for each fiscal year after fiscal year 2001, $20,000,000.

(V) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

(VI) for each fiscal year after fiscal year 2002, within the limit for fiscal year 2002 as determined under clauses (i) and (ii).

(4) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the activities described in clause (i) in carrying out such purposes, not more than—

(U) for fiscal year 1996, $200,000,000.

(V) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

(VI) for each fiscal year after fiscal year 2002, within the limit for fiscal year 2002 as determined under clauses (i) and (ii).

(5) INVESTIGATIONS.—

(i) FINANCIAL AND PERFORMANCE AUDITS OF HEALTH PLANS AND PROGRAMS.—To perform financial and performance audits of health plans and programs that provide health benefits, whether directly, through insurance, or otherwise.

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the requirements of subsection (a).

(6) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State Medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 213(b).

(7) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to the Congress on the amount of revenue which is generated and disbursed, and the justification for the disbursements, by the Account in each fiscal year.

SEC. 7102. APPLICATION OF CERTAIN HEALTH CARE FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS

(g) CRIMES.—

(1) GENERAL.—

(A) MEDICAL SECURITY ACT.—Section 11228 (42 U.S.C. 1320a-7b) is amended as follows:

(i) in the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS";

(ii) in paragraph (1), by striking "a program under title XVIII or a State health care insurance program", and inserting "a Federal health care program"; and

(iii) in paragraph (2), by striking "a program under title XVIII or a State health care insurance program" and inserting "a Federal health care program".
(D) In the second sentence of subsection (a)—
(i) by striking "a State plan approved under title XI, and inserting "a Federal health care program; and",
(ii) by striking "the State may at its option (notwithstanding any other provision of this title or any other provision) as appropriate", and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program) as appropriate,
(F) in subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program; and"
(P) in subsection (c), by inserting "as defined in section 1128(b)" after a "State health care program; and"

(2) By adding at the end the following new subsection:

"(f) For purposes of this section, the term "Federal health care program" means—

(i) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the Federal Government; or

(ii) any State health care program, as defined in section 1128(b)."

(3) IDENTIFICATION OF COMMUNITY SERVICE OPERATIONS.—Section 1128B (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new clause:

"(h) Definitions to existing safe harbors issued pursuant to section 1128B(b) and shall not serve as final rules for an exclusion under section 11280(b)(1);"

(iii) interruling to be issued pursuant to subsection (b), and

(iv) special fraud alerts to be issued pursuant to subsection (c)."

(B) PUBLICATION OF PROPOSED MODIFICATIONS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register a notice describing proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, for a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing additional safe harbors.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 7111 of the Inspector General Act of 1994, describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were incorporated in paragraphs (B) and (C). Interpretive rulings were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.
than a health care program) operated by or fi-
nanced in whole or in part by any Federal, State, or local government agency.

SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD TO
CONTROLLED SUBSTANCE.—Any individual or entity
that has been convicted after the date of the en-
actment of the Health Care Fraud and Abuse
Prevention Act of 1995, under Federal or State
law, of a criminal offense consisting of a felony
act relating to the unlawful manufacture, distribu-
tion, prescription, or dispensing of a controlled
substance.

(a) CONFORMING AMENDMENT.—Section
1128(b)(2) (42 U.S.C. 1320a-7(b)(2)) is amended
by striking "MISDEMEANOR CONVICTION: and
inserting "criminal offense consisting of a mis-
demeanor":

(b) (2) by striking "may prescribe, except that such period
may not be less than 1 year)".

(b) IN GENERAL.—Secretary may terminate and all that follows and
inserting in accordance with procedures established
under paragraph (9), the Secretary may
impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable)
the eligible organization if the Sec-

may apply the following intermediate sanctions:

(1) IN GENERAL.—Each government agency
that has the substantial likelihood of adversely af-
fending an individual covered under the organi-

(c) In the case of an eligible organization for
which the Secretary makes a determination
under paragraph (1) the basis of which is not
described in subparagraph (A), the Secretary
may apply the following intermediate sanctions:

(1) Civil money penalties of not more than
$25,000 per violation and can be

(3) SUSPENSION OF ENROLLMENT.—Section
1876(i) (42 U.S.C. 1395mm(i)) is amended
by adding at the end the following new para-

(i) Suspension of enrollment of individuals
under which—

(2) by striking "the Secretary makes a deter-
mination under paragraph (1) the basis of which is not
described in subparagraph (A), the Secretary
may apply the following intermediate sanctions:

(2) by striking the second sentence.

SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD TO
CONTROLLED SUBSTANCE.—Any individual or entity
that has been convicted after the date of the en-
actment of the Health Care Fraud and Abuse
Prevention Act of 1995, under Federal or State
law, of a criminal offense consisting of a felony
act relating to the unlawful manufacture, distribu-
tion, prescription, or dispensing of a controlled
substance.

(a) CONFORMING AMENDMENT.—Section
1128(b)(2) (42 U.S.C. 1320a-7(b)(2)) is amended
by striking "MISDEMEANOR CONVICTION: and
inserting "criminal offense consisting of a mis-
demeanor":

(b) (2) by striking "may prescribe, except that such period
may not be less than 1 year)".

(b) IN GENERAL.—Secretary may terminate and all that follows and
inserting in accordance with procedures established
under paragraph (9), the Secretary may
impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable)
the eligible organization if the Sec-

may apply the following intermediate sanctions:

(1) IN GENERAL.—Each government agency
that has the substantial likelihood of adversely af-
fending an individual covered under the organi-

(c) In the case of an eligible organization for
which the Secretary makes a determination
under paragraph (1) the basis of which is not
described in subparagraph (A), the Secretary
may apply the following intermediate sanctions:

(2) by striking the third sentence.

SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD TO
CONTROLLED SUBSTANCE.—Any individual or entity
that has been convicted after the date of the en-
actment of the Health Care Fraud and Abuse
Prevention Act of 1995, under Federal or State
law, of a criminal offense consisting of a felony
act relating to the unlawful manufacture, distribu-
tion, prescription, or dispensing of a controlled
substance.

(a) CONFORMING AMENDMENT.—Section
1128(b)(2) (42 U.S.C. 1320a-7(b)(2)) is amended
by striking "MISDEMEANOR CONVICTION: and
inserting "criminal offense consisting of a mis-
demeanor":

(b) (2) by striking "may prescribe, except that such period
may not be less than 1 year)".

(b) IN GENERAL.—Secretary may terminate and all that follows and
inserting in accordance with procedures established
under paragraph (9), the Secretary may
impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable)
the eligible organization if the Sec-

may apply the following intermediate sanctions:

(1) IN GENERAL.—Each government agency
that has the substantial likelihood of adversely af-
fending an individual covered under the organi-

(c) In the case of an eligible organization for
which the Secretary makes a determination
under paragraph (1) the basis of which is not
described in subparagraph (A), the Secretary
may apply the following intermediate sanctions:

(2) by striking the third sentence.
against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The informa-
tion required to be reported under paragraph (1) in-
cludes:
(A) The name and TIN (as defined in section 1128A (a) of title XVIII of this Act) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.
(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.
(C) The final adverse action and whether such action is on appeal.
(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes.

(5) TO WHOM REPORTED.—The information required to be reported under this section shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section, any health care provider, supplier, or practitioner shall, by regulation, provide for—
(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of incorrect or inaccurate information required to be reported under this section.

(d) ACCESS TO REPORTED INFORMATION.

(1) AVAILABILITY.—The information in this database shall be made available to Federal government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agen-
cies). The amount of such a fee shall be suffi-
cient to recover the full costs of operating the database, and any such final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner as the Secretary prescribes by regulation.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b), shall be held liable in any civil ac-
c tion with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) U.S. GOVERNMENT SPECIAL RULES.—For purposes of this section:

(i) FINAL ADVERSE ACTION.—The term "final adverse action" includes:
(A) Civil judgements against a health care provider, supplier, or practitioner in Federal, State, or local courts related to the delivery of a health care item or service.
(B) In a case involving a violation of Federal, State, or local law, regulations, rules, or standards that is the subject of a final adverse action, the term includes the penalty imposed under such law, regulation, rule, or standard, and whether such action is on appeal.
(C) A finding by a Government agency or health plan that such a provider, supplier, or practitioner failed to comply with Federal, State, or local law, regulations, rules, or standards that is the subject of a final adverse action, and whether such action is on appeal.

(ii) Health Care Provider, Supplier, or Practitioner.—The terms "health care provider," "health care supplier," and "health care practitioner" mean, with respect to a State or local government agency, the Secretary or Administrator of the Department of Health and Human Services, or any other individual authorized by the Secretary to provide health care services (or any individual who, without author-
ity holds himself or herself out to be so li-
censed or an otherwise qualified practitioner).

(iii) Health Care Provider.—The term 'health care provider' means a supplier of health care items and services described in subsection (a) of section 1819 and section 1851.

(iv) Health Care Practitioner.—The term 'health care practitioner' means a supplier of health care items and services described in subsections (a) and (b) of section 1128B(1) and section 1128C(b).

(v) Government Agency.—The term 'gov-
ernment agency' shall include:
(A) The Department of Justice.
(B) The Department of Health and Human Services.
(C) Any other Federal agency that either ad-
ministers or certifies the delivery of health care services, including, but not limited to the Department of Defense and the Veterans Administration.
(D) State law enforcement agencies.
(E) State medical fraud control units.
(F) Federal or State agencies responsible for licensing or certification of health care providers and licensed health care practitioners.
(G) Health plan.—The term 'health plan' has the meaning given such term by section 1881(c).

(vi) Determination of Conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128B(1).

(vii) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(a)(1)(A) of title XVIII of this Act is amended by inserting at the end the following new paragraph: 'Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigational and certification activities with respect to the issuance of the identifiers.'.

SEC. 712B. ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Subchapter D—Civil Monetary Penalties

SEC. 7131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES

(a) General Civil Monetary Penalties.—

(i) Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs as defined in section 1881(b)(1)(D);"

(2) In subsection (f), by redesignating paragraph (3) as para-
graph (4); and

(iii) by inserting after paragraph (4) the follow-
ing new paragraph:

(4) With respect to amounts recovered arising out of a claim under a Federal health care pro-
gram defined in section 1128B(1)(D), the recov-
ery of such amounts shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C)."

(2) In subsection (g), by striking "title V, VIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(1)(D));"

(iii) by inserting after paragraph (4), by striking "a health insur-
ance or medical services program under title XVII or XIX of this Act" and inserting "a Fed-
eral health care program (as so defined);" and

(c) In paragraph (5), by striking "title V, VIII, XIX, or XX" and inserting "a Federal health care program (as so defined);" and

(iv) by striking at the end the following new sub-
section:

"(m) For purposes of this section, with re-
spect to a Federal health care program not con-
tained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the depart-
ment or agency initiating the action.

(i) THE SECRETARY.—Section 1128A (a) (42 U.S.C. 1320a-7a) is amended by adding at the end the following new paragraph: 'Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigational and certification activities with respect to the issuance of the identifiers.'.

SEC. 713C. ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Subchapter D—Civil Monetary Penalties

SEC. 7131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES

(a) General Civil Monetary Penalties.—

(i) Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs as defined in section 1128B(1)(D);"

(2) In subsection (f), by redesigning paragraph (3) as para-
graph (4); and

(iii) by inserting after paragraph (4) the follow-
ing new paragraph:

(4) With respect to amounts recovered arising out of a claim under a Federal health care pro-
gram defined in section 1128B(1)(D), the recov-
ery of such amounts shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C)."

(2) In subsection (g), by striking "title V, VIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(1)(D));"

(iii) by inserting after paragraph (4), by striking "a health insur-
ance or medical services program under title XVII or XIX of this Act" and inserting "a Fed-
eral health care program (as so defined);" and

(c) In paragraph (5), by striking "title V, VIII, XIX, or XX" and inserting "a Federal health care program (as so defined);" and

(iv) by striking at the end the following new sub-
section:

"(m) For purposes of this section, with re-
spect to a Federal health care program not con-
tained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the applicable de-
partment or agency.

(i) THE SECRETARY.—Section 1128A (a) (42 U.S.C. 1320a-7a) is amended by adding at the end the following new paragraph: 'Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigational and certification activities with respect to the issuance of the identifiers.'.
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and who, at the time of a violation of this sub-
section, retains a direct or indirect ownership or
control interest of 5 percent or more, or an own-
ernship interest as defined in section 1128(b)(3),
remuneration as defined in section 1128A(b)(3)
(b) in, or who is an officer or managing em-
ployee (as defined in section 1128(b)) of, an
entity that is participating in a program under-
the Health Care Fraud and Abuse Prevention Act,
(2) MODIFICATIONS OF AMOUNTS OF PENALTIES
AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C.
1320a-la(a)) as amended by subsection (b), is
amended in the matter following paragraph (4),

(4) by striking "$2,000" and inserting "$100,000";

(2) by inserting "; and"

(6) for each day the prohibited relation-
ship occurs after "false or misleading informa-
tion was given"; and

(3) by striking "twice the amount" and insert-
ing "3 times the amount"

(4) CLAIM FOR ITEM OR SERVICE BASED ON IN-
CORRECT CODING OR MEDICALLY UNNECESSARY
SERVICES.—Section 1128a(a)(1) (42 U.S.C. 1320a-
7a(a)) is amended—

(A) in subparagraph (A) by striking "claimed,"
and inserting "claimed, including any person
who engages in a pattern or practice of
submitting or causing to be submitted
false claims or false statements to
support false claims for items or services
or to obtain payments for items or services

(B) at the discretion of the Attorney General,
and

(C) at the discretion of the Secretary

(2) COSTS OF ASSET

PROPERTY FORFEITURE DEPOSITS IN FED-
ERAL HOSPITAL INSURANCE TRUST FUND—

(A) IN GENERAL.—After the payment of the
 costs of asset forfeiture has been made, and not-
 for purposes of paragraph (1) or (2), the
 Secretary of the Treasury shall deposit into the
 Federal Hospital Insurance Trust Fund pursu-
ant to section 1817(k)(2)(C) of the Social Secu-
 rity Act, as added by section 7101(b), an amount
equal to the net amount realized from the for-
 feiture of property by reason of a Federal health
care offense pursuant to section 982(b)(8) of title
18, United States Code.

(B) CRIMINAL FINES DEPOSITED IN FED-
ERAL HOSPITAL INSURANCE TRUST FUND—

(A) IN GENERAL.—For purposes of this
paragraph, the term "payment of awards for in-
formation or assistance leading to a civil or crimi-
nal forfeiture in

(C) PERMITTING SECRETARY TO IMPOSE CIVIL
SANCTIONS AGAINST PROVIDERS AND

SECRETARY OF THE TREASURY.—The
Secretary of the Treasury shall deposit into the
Federal Hospital Insurance Trust Fund pursu-
ant to section 1817(k)(2)(C) of the Social Secu-
rity Act, as added by section 7101(b), an amount
equal to the net amount realized from the for-
feiture of property by reason of a Federal health
care offense pursuant to section 982(b)(8) of title
18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For pur-
poses of paragraph (1), the term "payment of
awards for information or assistance leading to a
criminal forfeiture in

(A) The court, in imposing sentence on a
person convicted of a Federal health care of-
fense, shall order the person to forfeit property,
real or personal, that constitutes or is derived,
directly or indirectly, from gross proceeds trace-
able to the commission of the offense.

(B) For purposes of this paragraph, the term
"Federal health care offense" means a violation of
a criminal conspiracy to violate—

(1) section 1347 of this title;

(2) section 1338 of the Social Security Act;

(3) sections 287, 371, 665, 666, 668, 1001, 1027,
1341, 1343, 1920, or 1954 of this title if the viola-
tion or conspiracy relates to health care fraud;

(4) CONFORMING AMENDMENT.—Section
982(b)(1)(A) of title 18, United States Code, is
amended by inserting "or (a)(6) "after "(a)(4)".

A person who engages in a pattern or practice of
submitting or causing to be submitted false
claims or false statements to support false claims for
items or services or to obtain payments for items or
services

(A) by striking "or " at the end of paragraph
and

(B) by striking "or" at the end of paragraph
and

(C) by striking the semicolon at the end of paragraph
and

(D) by inserting after paragraph (3) the fol-

lowing in paragraph (4),

"(4) offers to or transfers remuneration to any
individual eligible for benefits under title XVIII
of this Act, or under a State health care pro-
gram (as defined in section 1128(b) (1)) such
remuneration if such person knows or should know
is likely to influence such individual to order or receive
from a health care provider, practitioner, or supplier
any item or service for which payment may be
made, in whole or in part, under title XVIII, or a
State health care program;"

(2) REMUNERATION EXPENSES.—Section
1128a(l) (42 U.S.C. 1320a-7a(i)) is amended by
adding the following new paragraph:

(6) The term 'remuneration' includes the
waiver of coinsurance and deductible amounts (for
any part thereof), and transfers of items or
services for free or for other than fair market value.
The term 'remuneration' does not in-
clude—

"(A) the waiver of coinsurance and deductible
amounts by a person, if—

(i) the item or service was offered as part of an
advertisement or solicitation;

(ii) the person does not routinely waive
coinsurance or deductible amounts;

(iii) the term 'coinsurance' or 'deductible
amount' is not used in advertising the
waiver of coinsurance or deductible
amounts after determining reasonable collection
efforts;

(iv) provides for any permissible waiver as
specified in section 1128B(b)(3) or in
regulations issued by the Secretary.

(B) differentials in coinsurance and deduc-
tible amounts as part of a benefit plan design as
long as the differentials have been disclosed in
writing to all beneficiaries, third party payers,
and providers, to whom claims are presented
and as long as the differentials meet the stand-
ards as defined in regulations promulgated by
the Secretary not later than 180 days after the
date of the enactment of the Health Care Fraud
and Abuse Prevention Act of 1996;

(C) incentives given to individuals to pro-
mote the sale, delivery, or receipt of health care
services as determined by the Secretary in regula-
tions so promulgated.

(7) EFFECTIVE DATE.—The amendments
made by this section shall take effect January 1, 1996.

Subchapter E—Amendments to Criminal Law
SECT. 7141. HEALTH CARE FRAUD

(A) IN GENERAL—Whoever knowingly and willfully exe-
cutes, or attempts to execute, a scheme or arti-
fice

(1) to defraud any health plan or
other person, in connection with the delivery of or
payment for health care benefits, items, or services

(2) to obtain, by means of false or fraudulent
pretexts, representations, or promises, of any
the money or property owned by, or under the
control of, any person, in connection with the delivery of or
payment for health care benefits, items, or services
shall be fined under this title or imprisoned not
more than 10 years, or both.

(3) ClERICAL AMENDMENT.—The table of sec-
ctions at the beginning of chapter 63 of title 18,
United States Code, is amended by adding at the end the
following:

"1347—Health care fraud."

(b) CRIMINAL FINES DEPOSITED IN FEDER-
AL HOSPITAL INSURANCE TRUST FUND.—The
Secretary of the Treasury shall deposit into the
Federal Hospital Insurance Trust Fund pursu-
ant to section 1817(k)(2)(C) of the Social Secu-
rity Act, as added by section 7101(b), an amount
equal to the net amount realized from the for-
feiture of property by reason of a Federal health
care offense pursuant to section 982(b)(8) of title
18, United States Code.
(E) the payment of Obstruction of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 7144. JURISDICTION RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g) A person who is privy to grand jury information or records relating to a Federal health care offense as defined in section 92a(6)(B) of this title:"

(b) FILING OF ASSETS.—Section 3485(a)(2) of title 18, United States Code, is amended by the following:

"(c) The court may issue an order requiring a party who is the subject of the information to produce records, if so ordered, or to give testimony concerning the production and authentication of such records.

(c) The production of records may be required from any place in any State or in territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

(d) The court may require or authorize a person in possession or control of a document or record relating to a Federal health care offense to give testimony concerning the production and authentication of such records."

SEC. 7145. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§1033. False statements relating to health care matters

(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or destroys any book, document, or record, or device a material fact, or makes any false, fictitious, or fraudulent statement or representations, in any matter relating to a Federal health care offense as defined in section 92a(6)(B) of this title, shall be fined under this title or imprisoned not more than 10 years, or both.

(b) As used in this section, the term "health plan" has the same meaning given such term in section 1128C(c) of the Social Security Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§1069. False statement or order in connection with Health Care."

SEC. 7146. LAWSUITS INVOLVING MONETARY INtmENTS.

Section 1958(c)(7) of title 18, United States Code, is amended by adding at the end the following new subsection:

"(3) Any failure to obey the order of the court for productions or testimony shall not be grounds for reconsideration or appeal unless the disallowance of the application for reconsideration or appeal was contrary to the public interest and a direct threat to the successful prosecution of the case".

SEC. 7147. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures.

(a)(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue a written demand that any person serve a written demand upon another person, and to the public interest and the need for disclosure against the patient to the physician-patient relationship, and to the treatment services.

(b) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§1518. Obstruction of criminal investigations of Federal health care offenses

(a) Whoever knowingly prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section the term "Federal health care offense" has the same meaning given such term in section 92a(6)(B) of this title.

(c) As used in this section the term "criminal investigation" means an investigation conducted by a department, agency, or armed force of the United States.

SEC. 7148. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures.

(a)(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue a written demand that any person serve a written demand upon another person, and to the public interest and the need for disclosure against the patient to the physician-patient relationship, and to the treatment services.
Subchapter F—State Health Care Fraud Control Units

SEC. 713A. STATE HEALTH CARE FRAUD CONTROL ACT OF 1982.

(a) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the Medicare program.

(b) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

Chap. II—OTHER PROVISIONS FOR TRUST FUND SOLVENCY

SEC. 717I. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS.

Section 213(b) of the title 11, United States Code, is amended—

(1) by striking "(A)" after "in connection with"; and

(2) by striking "plan." and inserting "plan; and (B) upon the approval of the relevant Federal agency. any aspect of the provision of health care services to individuals of programs of such services under any Federal health care program (as defined in section 1122B(3))."

(b) AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 713(a) of this Act, is amended to read as follows:

"(4) For purposes of this paragraph, the term "board and care facility" means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundering, and housekeeping.

SEC. 713F. FINANCIAL INTEGRITY AND TRUST FUND SOLVENCY

PART D—PAYMENTS TO STATES

SEC. 2111. Eligibility and benefits.

Sec. 2104. Description of process for medical assistance.

Sec. 2102. Annual reports.

Sec. 2101. Description of strategic objectives, goals, and performance measures.

Sec. 2110. Purpose: Medicaid plans.

Sec. 2109. Medicaid-plan participation.

Sec. 2108. Medicaid-plan participation: Continuing eligibility and benefits.

Sec. 2107. Medicaid-plan participation: Reductions and exclusions.

Sec. 2106. Medicaid-plan participation: Participation in Medicaid.

Sec. 2105. Medicaid-plan participation: Establishment of program.

Sec. 2104. Medicaid-plan participation: Development of program.

Sec. 2103. Medicaid-plan participation: Application of state and local laws.

Sec. 2102. Medicaid-plan participation: Certification.

Sec. 2101. Medicaid-plan participation: Establishment of program.

Sec. 2110. Description of program for developing capitation payment rates.

Sec. 2115. Construction.

Sec. 2114. Prohibition of income and resources for certain institutionalized spouses.

PART E—PAYMENTS TO STATES

Sec. 2121. Assistance of amounts among States.

Sec. 2122. Payments to States.

Sec. 2123. Limitation on use of funds: disbursements.

Sec. 2124. Grant program for community health centers and rural health clinics.

PART F—PROGRAM INTEGRITY AND QUALITY

Sec. 2131. Use of audits to achieve fiscal integrity.

Sec. 2132. Fraud-prevention program.

Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.

Sec. 2134. State Medicaid fraud control units.

Sec. 2135. Reimbursements from third parties and others.

Sec. 2136. Assignment of rights of payment.

Sec. 2137. Requirements for nursing facilities.

Sec. 2138. Other provisions promoting program integrity.

PART G—ESTABLISHMENT AND AMENDMENT OF MEDICAID PLANS

Sec. 2141. Submittal and approval of Medicaid plans.

Sec. 2142. Submittal and approval of plan amendments.

Sec. 2143. Submittal and approval of plan amendments.

Sec. 2144. Sanctions for substantial non-compliance.

Sec. 2145. Secretarial authority.

PART G—GENERAL PROVISIONS

Sec. 2161. Definitions.

Sec. 2162. Treatment of territories.

Sec. 2163. Description of treatment of Indian health programs.

Sec. 2164. Application of certain general provisions.

Sec. 2165. Purpose: State Medicaid plans.

(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under plan (as defined in this title referred to as a "medicaid plan") that—

(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title; and

(2) is approved under such part.

(c) CONTINUED APPROVAL.—An approved medicaid plan shall continue in effect unless and until—

(1) the Secretary finds substantial non-compliance of the plan with the requirements of this title under section 2122;

(2) the State terminates participation under this title; or

(3) the Secretary finds substantial non-compliance of the plan with the requirements of this title under section 2122.

(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and nothing in the Federal Government to provide for the payment to States of amounts provided under part C.

PART H—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

Sec. 2161. Description of strategic objectives and performance goals.

Sec. 2162. Annual reports.

Sec. 2163. Periodic, independent evaluations.

Sec. 2164. Description of process for Medicaid plan development.

Sec. 2165. Consultation in Medicaid plan development.

Sec. 2166. Eligibility, benefits, and set-asides.

Sec. 2167. Eligibility and benefits.

Sec. 2168. Set-asides of funds for population groups.

Sec. 2169. Premiums and cost-sharing.

Sec. 2170. Description of process for developing capitation payment rates.
and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

(2) CERTAIN OBJECTIVES AND GOALS REQUIRED—The medicaid plan shall include strategic objectives and performance goals relating to—

(1) rates of childhood immunizations;
(2) reductions in infant mortality and morbidity; and
(3) standards of care and access to services for persons with special health care needs as defined by the State.

(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

(1) the State’s priorities with respect to providing assistance to low-income populations.

(2) The State’s priorities with respect to the general public health and the health status of individuals eligible for assistance under the medicaid plan.

(3) The State’s financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

(d) PERFORMANCE MEASURES.—To the extent practicable—

(1) one or more performance goals shall be established for each of the objectives identified in the medicaid plan; and

(2) the medicaid plan shall describe how program performance will be measured through objective, independently verifiable means, and

(B) compared against performance goals, in order to examine the State’s performance under this title.

(e) PERIOD COVERED.—

(1) STRATEGIC OBJECTIVES.—The strategic objectives and performance goals identified in subsection (c) shall become effective for the period of not less than 3 years and shall be updated and revised at least every 3 years.

(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

SEC. 2182. ANNUAL REPORTS.

(a) IN GENERAL.—In the case of a State with a medicaid plan in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1988, in the case of a State with a medicaid plan in effect for the period of not less than 3 years and shall be updated and revised at least every 3 years),

(b) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

SEC. 2183. CONSULTATION IN MEDICAID PLAN DEVELOPMENT.

(a) PUBLIC PROCESS.—

(1) IN GENERAL.—Before submitting a medicaid plan or a plan amendment described in paragraph (3) to the Secretary under part E, a State shall provide—

(A) a public notice respecting the substantiality of the proposed plan or amendment, including a general description of the plan or amendment, a copy of the proposed plan or amendment, and a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment; and

(B) an opportunity for public comment and consideration of public comments on the proposed plan or amendment.

(2) CONTENTS OF NOTICE.—A notice under paragraph (1)(A) for a proposed plan or amendment shall include a description of—

(A) the general purpose of the proposed plan or amendment, including applicable effective dates; and

(B) where the public may inspect the proposed plan or amendment.

(3) AMENDMENTS ARTICLES.—An amendment to a medicaid plan described in this paragraph is an amendment which makes a material and substantial change in eligibility under the medicaid plan or the benefits provided under the plan.

SEC. 2184. DESCRIPTION OF PROCESS FOR MEDICAID PLAN DEVELOPMENT.

(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its medicaid plan approved under this title.

(b) INDEPENDENT.—Each such evaluation with respect to an activity under the medicaid plan shall be conducted by an entity that is independent of the State’s administration of the medicaid plan (or part thereof) and is responsible for administering (or supervising the administration of) the activity.

(c) DESCRIPTION.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.
SEC. 2111. ELIGIBILITY AND BENEFITS.

(a) In General.—Each medicaid plan shall—

(1) be designed to serve all political subdivisions in the State;

(2) provide for making medical assistance available (subject to the State flexibility described in section 2115) to any pregnant woman or child under the age of 13 whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved;

(3) provide for making medical assistance available (subject to any standards established by the plan under title XVI by reason of lack of suitable placement elsewhere: or

(b) DESCRIPTION OF GENERAL ELEMENTS.—Each medicaid plan shall include a description (consistent with this title) of the following:

(1) ELEMENTS RELATING TO ELIGIBILITY.—The general eligibility standards of the plan, including—

(a) any limitations as to the duration of eligibility;

(b) any eligibility standards relating to age, income (including any standards relating to spenddowns), residency, disability status, immigration status, or employment status of individuals;

(c) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income;

(d) eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent impoverishment of the community spouse; and

(e) any other standards relating to eligibility for medical assistance.

(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

(A) the role of precertification and (or) use of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and care coordination); and

(B) utilization control systems.

(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis, the plan shall—

(A) how the State determines the qualifications of health care providers eligible to provide such assistance, and

(B) how the State determines rates of reimbursement for providing such assistance.

(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients under 19 years of age and the spouses of recipients.

(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

(7) SUPPLEMENTAL HOSPITALS—

(A) In general.—With respect to hospitals described in subparagraph (B) located in the State, as reported to the State by the Secretary, the medicaid plan shall—

(i) a medicaid plan may not deny or exclude medical assistance in the State in the case of a patient who is in a specialized ward and whether or not the individual remains in the hospital for such time; and

(ii) the term 'per diem' includes each day (including any days attributable to patients who (for such days) were eligible for medical assistance under a medicaid plan or were uninsured in a period and the denominator of which is the total number of the hospital's patient days in that period.

(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.

(1) targeted low-income family defined.—For purposes of this subsection, the term 'targeted low-income family' means a family which—

(a) which plan a child or a pregnant woman; and

(b) whose income of which does not exceed 183 percent of the poverty line applicable to a family of the size involved.

(2) FOR LOW-INCOME ELDERLY—

(A) THE MEDICAL ASSISTANCE PLAN.—A medicaid plan shall provide medical assistance under the medicaid plan, in accordance with a schedule for immunizations established by the Health Department of the State, for the medical assistance of the individual and entities in the State responsible for the administration of the plan.

(B) FAMILY PLANNING SERVICES.—The medicaid plan shall provide family planning services and supplies as specified by the State.

(c) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

(i) a medicaid plan may not deny or exclude coverage of any item or service for an eligible individual on the basis of a preexisting condition; and

(ii) if a State contracts or makes other arrangements (through a medicaid plan or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the medicaid plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its medicaid plan, for such coverage (through direct payment or otherwise) for such covered item or service.

(d) FRAUD AND ABUSE.—The plan shall not be excluded on the basis of a preexisting condition.

(e) MENTAL HEALTH SERVICES.—A medicaid plan shall not impose treatment limits or financial requirements on services for mental health, which are not the individual remains in the hospital for such time) was not on a basis directly related to disability status, including being blind.

(f) MINIMUM LOW-INCOME FAMILY AMOUNT.—

(1) the minimum low-income family amount specified in paragraph (3) for a fiscal year shall be not less than the minimum low-income-family amount specified in paragraph (3) for the fiscal year.

(2) the term 'targeted low-income family' means a family which—

(a) which plan a child or a pregnant woman; and

(b) whose income of which does not exceed 183 percent of the poverty line applicable to a family of the size involved.

(g) TARGETED LOW-INCOME FAMILY DEFINED.—For purposes of this subsection, the term 'targeted low-income family' means a family which—

(A) which plan a child or a pregnant woman; and

(B) whose income of which does not exceed 183 percent of the poverty line applicable to a family of the size involved.
not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for medical assistance in the State during the fiscal year preceding the public notice. to the extent to which such services are not provided under the medicaid plan, and (2) does not include expenditures attributable to disproportionate share payments described in section 2111(b).

(2) MINIMUM LOW-INCOME-ELDERLY AMOUNT.—The minimum low-income-elderly amount specified in this subparagraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance for medicare premiums described in section 2111(b) for such State for the fiscal year preceding the public notice.

(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term "targeted low-income elderly individual" means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

(4) FOR LOW-INCOME DISABLED PERSONS.—(1) IN GENERAL.—Subject to subsection (e), a methodology for determining the amount of funds expended under the plan for medical assistance for eligible low-income elderly individuals who have not attained retirement age and are eligible for such assistance on the basis of a disability, including being blind, for a fiscal year is not less than the minimum low-income-disabled amount specified in paragraph (2) and the minimum qualified percentage specified in paragraph (2)(B) of the total funds expended under the plan for medical assistance for medicare costs described in section 2111(b)(1) for the fiscal year preceding the public notice.

(5) USE OF ACTUARIAL SCIENCE.—The extent to which the plan described in paragraph (2)(A) includes capitations, deductibles, coinsurance, and other charges for the provision of health care services.

SEC. 2113. PREMIUMS AND COST-SHARING.

(a) IN GENERAL.—If a State contracts for services with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the capitated health care organization for providing or arranging for the provision of medical assistance under the medicaid plan for a group of services, including at least the following:

(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—(A) to analyze and project health care expenditures and utilization for individuals enrolled in the capitated health care organization under the medicaid plan and (B) to develop capitation payment rates, including a brief description of the general methodology used by the State.

(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the medicaid plan.

(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into a contract with a capitated health care organization, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

(4) IDENTIFICATION OF ENROLLEES IN CAPITATED HEALTH CARE ORGANIZATIONS.—The method used by the State by which hospitals may identify enrollees in capitated health care organizations for the purposes of providing or billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).

SEC. 2114. DEVELOPING CAPITATION PAYMENT RATES.

(a) IN GENERAL.—If a State contracts for services with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the capitated health care organization for providing or arranging for the provision of medical assistance under the medicaid plan for a group of services, including at least the following:

(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—(A) to analyze and project health care expenditures and utilization for individuals enrolled in the capitated health care organization under the medicaid plan and (B) to develop capitation payment rates, including a brief description of the general methodology used by the State.

(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the medicaid plan.

(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into a contract with a capitated health care organization, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

(4) IDENTIFICATION OF ENROLLEES IN CAPITATED HEALTH CARE ORGANIZATIONS.—The method used by the State by which hospitals may identify enrollees in capitated health care organizations for the purposes of providing or billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).

(5) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—(A) to analyze and project health care expenditures and utilization for individuals enrolled in the capitated health care organization under the medicaid plan and (B) to develop capitation payment rates, including a brief description of the general methodology used by the State.

(6) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the medicaid plan.

(7) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into a contract with a capitated health care organization, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

(8) IDENTIFICATION OF ENROLLEES IN CAPITATED HEALTH CARE ORGANIZATIONS.—The method used by the State by which hospitals may identify enrollees in capitated health care organizations for the purposes of providing or billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).

(9) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—(A) to analyze and project health care expenditures and utilization for individuals enrolled in the capitated health care organization under the medicaid plan and (B) to develop capitation payment rates, including a brief description of the general methodology used by the State.

(10) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the medicaid plan.

(11) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into a contract with a capitated health care organization, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

(12) IDENTIFICATION OF ENROLLEES IN CAPITATED HEALTH CARE ORGANIZATIONS.—The method used by the State by which hospitals may identify enrollees in capitated health care organizations for the purposes of providing or billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).
Section 2115. Construction.

(a) State flexibility in benefits, provider payments, geographical coverage and other provisions in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring nothing to preclude:—

(1) to provide medical assistance for any particular items or services:

(2) to provide for any payments with respect to any specific health care providers or any level of payments for any services;

(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State.

(b) The term "institutionalized spouse" means—

(1) an institutionalized spouse (as defined in subparagraph (C) of subsection (1) of section 1902 of the Social Security Act) after the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse; and

(2) any other provision of this title which is superseded to the extent that the amount of such resources exceeds the amount computed under subsection (f)(1) or (g)(1).

(c) The State determines that denial of eligibility would work an undue hardship.

Section 2116. Special treatment for institutionalized spouses.

(a) Special treatment for institutionalized spouses.—

(A) the total value of the resources to the extent that the amount of such resources exceeds the amount computed under subsection (f)(1) or (g)(1).

(B) Any other provision of this title which is superseded to the extent that the amount of such resources exceeds the amount computed under subsection (f)(1) or (g)(1).

(C) The State determines that denial of eligibility would work an undue hardship.

Section 1902. Construction.

(a) The term "institutionalized spouse" means—

(1) an institutionalized spouse (as defined in subparagraph (C) of subsection (1) of section 1902 of the Social Security Act) after the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse; and

(2) any other provision of this title which is superseded to the extent that the amount of such resources exceeds the amount computed under subsection (f)(1) or (g)(1).

(b) The State determines that denial of eligibility would work an undue hardship.

(c) The State determines that denial of eligibility would work an undue hardship.

(d) The State determines that denial of eligibility would work an undue hardship.

(e) The State determines that denial of eligibility would work an undue hardship.

(f) The State determines that denial of eligibility would work an undue hardship.

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(y) The State determines that denial of eligibility would work an undue hardship.

(z) The State determines that denial of eligibility would work an undue hardship.

(A) The State determines that denial of eligibility would work an undue hardship.

(B) The State determines that denial of eligibility would work an undue hardship.

(C) The State determines that denial of eligibility would work an undue hardship.

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(W) The State determines that denial of eligibility would work an undue hardship.

(X) The State determines that denial of eligibility would work an undue hardship.

(Y) The State determines that denial of eligibility would work an undue hardship.

(Z) The State determines that denial of eligibility would work an undue hardship.
(1) PERSONAL NEEDS ALLOWANCE.—
   (A) IN GENERAL.—For purposes of this section, the term ‘personal needs allowance’ means any allowance that:
   (i) is for the benefit of an individual;
   (ii) is determined under the rules of the State;
   (iii) is subject to adjustment under subsections (c), (d), and (g); and
   (iv) for purposes of paragraph (A)(i) of subparagraph (B), the term ‘institutionalized spouse’ means a spouse who is institutionalized under subparagraph (A) and is entitled to a fair hearing with respect to such determination.

(2) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—
   (A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the community spouse monthly income allowance for a community spouse is an amount by which:
   (i) the applicable percent (described in subparagraph (B)) of the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse exceeds
   (ii) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

(3) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—
   (A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which subject to subparagraph (C), is equal to or greater than:
   (i) the applicable percent (described in subparagraph (B)) of 1/3 of the poverty line applicable to a family unit consisting of 2 members;
   (ii) an excess shelter allowance (as defined in paragraph (5)), and
   (iii) the computation of the spousal share of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

(4) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—
   (A) IN GENERAL.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (c) and (d)).

(5) CARRYOVER OF ALLOTMENT FOR THE NEXT FISCAL YEAR.—
   (A) IN GENERAL.—If the amount specified in clause (i)(II) of subsection (a) is less than the amount of any allotment under this section to the State for the preceding fiscal year, the amount so underprovided shall be held within 30 days of the date of the request for the hearing.

(6) FAIR HEARING.—
   (A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of:
      (i) the community spouse’s personal needs allowance;
      (ii) the amount of income otherwise available to the community spouse (as applied under subsection (d)(1));
      (iii) the computation of the spousal share of resources under subsection (c)(1);
      (iv) the determination of resources under subsection (c)(2); or
      (v) the determination of the community spouse’s personal needs allowance as determined under subsection (d)(1), such spouse is entitled to a fair hearing with respect to such determination.

(7) LIMITATION ON OBLIGATIONS.—
   (A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations, with any State under this section, for a fiscal year in excess of the obligation amount for that State for the fiscal year under paragraph (5) of such obligation amounts for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under this section) which are in excess of the ob- ligation amount for that State for the fiscal year under such paragraph (5) of such obligation amounts for all States in any fiscal year.

(8) LIMITATION ON AMOUNTS.—For services furnished during a calendar year after 1986, the dollar amounts specified in subsections (d)(3)(C), (d)(2)(A)(i), and (d)(2)(A)(ii) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items: U.S. city average) between September 1988 and the September before the calendar year.

(9) DEFINITIONS.—For purposes of this section:
   (A) INSTITUTIONALIZED SPOUSE.—The term ‘institutionalized spouse’ means an individual who is in a medical institution or nursing facility and is married to a spouse who is not in a medical institution or nursing facility.

(10) PAYMENTS TO STATES.—
   (A) ALLOTMENTS.—
      (i) IN GENERAL.—An institutionalized spouse may transfer an amount equal to the community spouse resource allowance (as determined under paragraph (1)) to the community spouse.

(11) IN GENERAL.—An institutionalized spouse may transfer an amount equal to the community spouse resource allowance (as determined under paragraph (1)) to the community spouse, but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made within 10 days of the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (11).
(ii) REDUCTION FOR POST-ENACTMENT OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment attributable to obligations provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this title.

(iii) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY BY TERRITORIES.—For purposes of this subsection, the aggregate limit on new obligation authority for a fiscal year is the pool amount under subsection (b) reduced by the amount of such adjustments.

(iv) PRE-ENACTMENT-OBLIGATION OUTLAWS DEFINED.—For purposes of this subsection, the term 'pre-enactment obligation outlays' means, for a State, the outlays for Fiscal Year 1996 for the obliga-
tions that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

(v) DISTRIBUTION OF MEDICAID GROWTH FUND AMOUNTS.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

(vi) POOL OF AVAILABLE FUNDS.—

(I) IN GENERAL.—For purposes of this section and subject to subsection (b), the pool amount under this subsection for the fiscal year is the product of—

(A) fiscal year 1996 is $24,624 billion.

(B) OBLIGATION ALLOCATIONS.—

(I) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the obligation allocation for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (a)) for the fiscal year as the ratio of—

(i) the aggregate limit on new obligation authority (less the total of the obligation allocations under subparagraph (B)) for the fiscal year to

(ii) the pool amount for such fiscal year: reduced by

(iii) the obligation amount for the preceding fiscal year.

(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

(I) IN GENERAL.—The obligation amount for fiscal year 1996 for any State, including the District of Columbia, a Commonwealth, or territory, is determined according to the formula: A = B - C - D.

(ii) A is the obligation amount for such State.

(iii) B is the outlay allotment of such State for fiscal year 1996 (as determined under subsection (c)).

(iv) C is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)); and

(v) D is the payout adjustment factor for such fiscal year (as defined in paragraph (b)).

(vi) PRE-ENACTMENT-OBLIGATION OUTLAWS AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary of the Treasury shall publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iii) of this section for the District of Columbia, Commonwealths, and territories. The total of such amounts shall equal the dollar amount of the pre-enactment-obligation outlays under paragraph (C)(ii).

(vii) AGREEMENT.—The submission of a medicaid plan by a State under this title is deemed to constitute the State's acceptance of the obligation allocation limitations under this subsection, including the formula for computing the amount of such obligation allocation.

(viii) COMPUTATION OF STATE OBLIGATION ALLOWANCES.—

(I) IN GENERAL.—Subject to the succeeding provisions of this section, the amount of the State obligation allotment under this subsection for each of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to

(i) the needs-based amount determined under subparagraph (B) for such State or District for that fiscal year;

(ii) the scalar factor described in subparagraph (C) for the fiscal year.

(iiid) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a fiscal year is equal to the product of

(I) the State's or District's aggregate expenditures need for the fiscal year (as determined under subsection (d)); and

(ii) the State's or District's Federal medical assistance percentage (as determined under section 1916(c) (without regard to paragraph (3)(A)(i)(I) thereof)) for the previous fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1998).

(iii) SCALAR FACTOR.—(1) For fiscal year 1999, the scalar factor shall be computed using the formula: F = S / R.

(2) In each case the scalar factor shall be equal to 1 for any fiscal year.

(iv) FLOOR AND CEILINGS.—

(A) IN GENERAL.—In no case shall the amount of the State obligation allotment under paragraph (2) for a fiscal year be less than the greatest of—

(i) 82 percent of the amount of the State obligation allotment under this subsection for the preceding fiscal year;

(ii) 76 percent of the amount of such fiscal year; or

(iii) 103 percent of the dollar amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1995.

(B) COMPUTATION OF EXPENDITURES.—The amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1995, multiplied by the scalar factor described in subparagraph (D).

(v) COMPARATIVE PERCENTAGE.—(1) For fiscal year 1999, 104.25 percent.

(2) For fiscal years 2000 and 2001, 104 percent.

(3) For fiscal year 2002, 104.4 percent.

(4) CEILING.—

(A) IN GENERAL.—In no case shall the amount of the State obligation allotment under paragraph (2) for a fiscal year be greater than the product of—

(i) the State obligation allotment under this subsection for such State or District (as determined under clause (ii)); and

(ii) the applicable percentage of the national medicaid growth percentage (as determined under section 1916(c)) for the fiscal year involved.

(iv) APPLICABLE PERCENTAGE.—For purposes of clauses (i) and (ii), the applicable percentage is

(i) for fiscal year 1997, 125.5 percent;

(ii) for fiscal year 1998, 130.3 percent;

(iii) for fiscal year 1999, 135 percent;

(iv) for fiscal year 2000, 135 percent; and

(v) for fiscal year 2001, 144 percent.
(‘V’ for fiscal year 2002, 148 percent.

(‘W’ for fiscal year 2001, 146 percent.

(‘X’ for fiscal year 2000, 145 percent.

(‘Y’ for fiscal year 1999, 144 percent.

(‘Z’ for fiscal year 1998, 143 percent.

(A) ELECTION.—In order to reduce variations in increases or decreases in outlay allotments over time, any of the 50 States or the District of Columbia or the Commonwealth or territory may notify the Secretary by not later than April 1, 1996, to adopt an alternative growth rate formula under this paragraph for the determination of such State or the District of Columbia’s outlay allotment in fiscal year 1996 and for the increase or decrease in the amount of such allotment in subsequent fiscal years. In the case of the District of Columbia, the determination of such State shall be determined under paragraph (i).

(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which—

(i) a portion of the State outlay allotment for fiscal year 1996 under paragraph (I) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment determined for fiscal year 1996, or

(ii) a portion of the State outlay allotment for one or more of the 3 fiscal years immediately following fiscal year 1996 under paragraph (I) is applied to defray the amount of its outlay allotment for fiscal year 1996, so long as the total amount of such increase does not exceed 25 percent of the amount of the outlay allotment for fiscal year 1996 otherwise determined under paragraph (I).

(2) COMMONWEALThS AND TERRITORIES.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) with respect to the Commonwealth with the fiscal year, the national medicaid growth percentage (as determined under subsection (B)) for the fiscal year (1996), and the national medicaid growth percentage (as determined under subparagraph (B)) for the fiscal year (1997) for the percentage increase referred to in section 1108(c)(1)(B).

(3) SPECIAL RULE.—

(A) IN GENERAL.—Notwithstanding the preceding paragraphs of this subsection, the State outlay allotment for—

(i) New Hampshire for each of the fiscal years 1996 through 2000, is $380,000,000; and

(ii) the fiscal year 1996 through 2000, is $2,622 billion.

(B) EXCEPTION.—A State described in subparagraph (A) may apply to the Secretary for use of the national medicaid growth percentage determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 of the fiscal year that such State will be able to exceed sufficient State funds in such fiscal year to qualify for such allotment.

(C) AGGREGATE EXPENDITURE NEED DETERMINED—

(I) IN GENERAL.—For purposes of subsection (c), the aggregate expenditure need for a State or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:

[A] the average annual number of recipients in poverty of such State or the District of Columbia with respect to the fiscal year (as determined under paragraph (2));

[B] the national average spending per recipient for the fiscal year involved.

[C] the national average expenditure per recipient for a fiscal year is equal to—

(i) the sum of—

(A) the per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B));

(B) the per recipient expenditures with respect to blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C));

(C) the per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));

and

(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (determined under paragraph (3)) to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for the fiscal year referred to in clause (i).

[D] the per recipient expenditures with respect to other individuals in such State or District for the fiscal year (determined under subparagraph (D)) divided by—

(i) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved;

(ii) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for a fiscal year is equal to the product of—

(A) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who have attained retirement age;

(B) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause;

(C) the national average expenditures per recipient and the proportions referred to in subparagraphs (B) and (C) respectively, of subparagraph (A) for fiscal year 1995.

(E) the per recipient expenditures for the elderly, for purposes of subparagraph (B), the per recipient expenditures with respect to elderly individuals in such State or the District of Columbia for a fiscal year is equal to the product of—

(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who have attained retirement age;

(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause;

and

(iii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (determined under paragraph (3)) to (II) the national average annual wages for hospital employees in the 50 States and the District of Columbia for the fiscal year involved.

(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

(I) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

(II) USE OF MEDICARE DATA.—If for a fiscal year involved there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of individuals under title XIX for the most recent fiscal year for which data are available, and, for this purpose, any reference in this section to ‘individuals whose basis for eligibility for medical assistance is based on having attained retirement age’ shall be deemed to include individuals described in such clause.

(II) the reference in subparagraph (C)(i) to ‘individuals whose basis for eligibility for medical assistance is based on having attained retirement age’ shall be deemed to include individuals described in such clause.

(III) the national average per recipient expenditures for the elderly, for purposes of subparagraph (B), the per recipient expenditures with respect to elderly individuals in such State or the District of Columbia for a fiscal year is equal to the product of—

(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who have attained retirement age;

(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause;

and

(iii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (determined under paragraph (3)) to (II) the national average annual wages for hospital employees in the 50 States and the District of Columbia for the fiscal year involved.

(III) EXPENDITURE DEFINED.—For purposes of this paragraph, the term ‘expenditure’ means medical assistance payments made under the medicare plan, other than medical assistance attributable to disproportionate share payments, as well as any payments made under any other program.

(IV) INCOME LIMITS.—For purposes of this paragraph, the term ‘income limits’ means income limits determined under subsection (a).

(V) MEDICARE DETERMINATIONS.—For purposes of this paragraph, the term ‘medicare plan’ means the medicare plan of the Secretary determined under this section.

(W) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—

(A) IN GENERAL.—For purposes of this subsection, the national average spending per resident in poverty means the ratio of—

(i) the national average expenditures per recipient for a fiscal year is equal to—

(ii) the product of (I) the national average spending per resident in poverty (as determined under subparagraph (B)) for the fiscal year (determined under paragraph (3)) for the 3 most recent fiscal years for which such data are available; and

(iii) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

(B) RESIDENT IN POVERTY DEFINED.—The term resident in poverty means an individual described in section 16140(1)(B)(1)(I) whose family income does not exceed 100 percent of the poverty line for the year involved applicable to a family of the size described in such clause.

(C) CASE MIX INDEX.—The average of the commonwealths and territories, the national average spending per recipient for a fiscal year is equal to—

(i) the sum of—

(A) the per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B));

(B) the per recipient expenditures with respect to blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C));

(C) the per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));

and

(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (determined under paragraph (3)) to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for the fiscal year referred to in such subparagraph.

(D) RESIDENTS IN POVERTY DEFINED.—The term residents in poverty means an individual described in section 16140(1)(B)(1)(I) whose family income does not exceed 100 percent of the poverty line for the year involved applicable to a family of the size described in such clause.

(E) CASE MIX INDEX.—The average of the

(A) IN GENERAL.—For purposes of this subsection, the national average spending per recipient for a fiscal year is equal to—

(i) the product of (I) the national average spending per resident in poverty (as determined under subparagraph (B)) for the fiscal year (determined under paragraph (3)) for the 3 most recent fiscal years for which such data are available; and

(ii) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

(B) RESIDENT IN POVERTY DEFINED.—The term resident in poverty means an individual described in section 16140(1)(B)(1)(I) whose family income does not exceed 100 percent of the poverty line for the year involved applicable to a family of the size described in such clause.

(C) CASE MIX INDEX.—The average of the

(A) IN GENERAL.—For purposes of this subsection, the national average spending per recipient for a fiscal year is equal to—

(i) the product of (I) the national average spending per resident in poverty (as determined under subparagraph (B)) for the fiscal year (determined under paragraph (3)) for the 3 most recent fiscal years for which such data are available; and

(ii) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.
Sec. 2122. Payments to States.

(a) Amount of payment. — From the allotment of a State under section 2121, plus any additional amount to be paid to such State under subsection (g) or (h), for a fiscal year, subject to the succeeding provisions of this section, the Secretary shall pay to each State which has a plan, the Secretary shall submit to Congress, by not later than October 30, 1995, a report analyzing the final allotments under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology used in deriving such allotments for the year.

(b) Review by GAO. — The Comptroller General shall submit to Congress by not later than July 1 of each such fiscal year, a report analyzing such allotments and the extent to which such allotments comply with the precise requirements of this section.

(II) donations described in paragraph (2)(c);

(II) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for medical assistance for calendar quarters in fiscal year 1995 (other than such expenditures under section 1923), increased by the percentage specified in subsection (c)(2)(A)(iii), divided by the product of 4 and the average number of residents in poverty (as defined in paragraph (2)(A) for all of the 50 States and the District of Columbia for the 3 most recent fiscal years for which data are available.

(3) LIMITATION ON RANGE.—In no case shall the Federal medical assistance percentage be less than 50 percent, or 10 percent, or 83 percent. In no case shall the Federal medical assistance percentage be less than 50 percent, or 10 percent, or 83 percent.

(II) definitions in paragraph (2)(A), other than

(II) from provider-related donations (as defined in subsection (c)(2));

(II) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (2)(C)).
"(ii) from a broad-based health care related tax, if there is in effect a hold harmless provision described in paragraph (4) with respect to the tax."

(B) REDUCTION IN ADMINISTRATIVE EXPENDITURES.—Notwithstanding the provisions of this section, for purposes of determining the amount of such payment under subsection (a) for a unit of local government, the area over which the unit has jurisdiction (or is imposed with respect to all non-Federal, nonpublic providers in the class) are to be taken into account for purposes of this subsection, and

(ii) is imposed uniformly (in accordance with subparagraph (C)).

(C) UNIFORM PROVISION OF TAX.—In general, a tax is considered to be uniform with respect to a class of items or services (or providers of such items or services), if the amount of the tax imposed is the same for each provider providing items or services within the class:

(1) In the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class:

(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such items or services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of such fee or tax is determined on the basis of—

(A) the amount of the tax imposed on each bed of the provider, or

(B) the amount of the tax imposed on each unit (or portion of the tax paid in a manner that is inversely proportional to) to a State or unit of local government by—

(i) a tax (as defined in paragraph (5)(F)) that—

(iii) Nursing facility services

(iv) Services of intermediate care facilities for the mentally retarded

(v)scripts of the costs of the tax.

Notwithstanding the provisions of this paragraph, a hold harmless shall be found to be in effect with respect to a tax enacted or extended prior to October 1, 1993, because of the existence in the State of a program of financial aid or of tax credits for recipients of health care items or services from providers that are subject to an otherwise valid health care related tax.

(D) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

(i) Each of the following shall be considered a separate class of health care items and services:

(ii) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under a medicaid plan approved under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the medicaid plan.

(ii) All or any portion of the payment made under this title by the taxpayer varies based only on the amount of the tax.

(iii) The State or other unit of government imposing the tax provides (directly or indirectly) for a hold harmless (or for any other arrangement) in a manner that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

Notwithstanding the provisions of this paragraph, a hold harmless shall be found to be in effect with respect to a tax enacted or extended prior to October 1, 1993, because of the existence in the State of a program of financial aid or of tax credits for recipients of health care items or services from providers that are subject to an otherwise valid health care related tax.

(E) WAIVER APPLICATION FOR TREATMENT AS NONUNIFORMITY DETERMINATION. —For purposes of paragraph (1)(A)(ii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

(i) The State or other unit of government has made a finding that the tax, with respect to a class of items or services if the Secretary determines that any of the following applies:

(ii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(iii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(iv) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(v) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(vi) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(vii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(viii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(ix) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(x) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xi) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xiii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xiv) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xv) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xvi) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xvii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xviii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xix) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

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(xxii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxiii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxiv) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

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(xxvi) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxvii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxviii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxix) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxx) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxi) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxiii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxiv) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxv) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxvi) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxvii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxviii) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xxxix) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.

(xl) the tax is not imposed with respect to such items or services or the providers thereof for which payment is made under a medicaid plan approved under this title.
(B) HEALTH CARE PROVIDER.—The term 'health care provider' means an individual or person that receives payments for the provision of health care services to 50 States and the District of Columbia.

(2) RELATED ENTITIES.—An entity is considered to be 'related' to a health care provider if they—

(i) are an organization, association, corporation or partnership formed by or on behalf of health care providers; or

(ii) have an ownership or control interest (as defined in section 1124a of this title) in the provider;

(iii) is the employer, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

(iv) has a similar, close relationship (as defined by regulations) to the provider.

(D) STATE.—The term 'State' means only the 50 States and the District of Columbia.

(E) STATE FISCAL YEAR.—The 'State fiscal year' means, with respect to a specified year, a fiscal year ending in that specified year.

(F) TAX.—The term 'tax' includes any licensing fee, assessment, or other mandatory payment that provides for the fee or charge imposed by a State regulatory, authorizing, or other governmental unit of local government means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.

(G) RELATED TAXES.—The term 'related taxes' includes any fees or charges imposed by a State regulatory, authorizing, or other governmental unit of local government that provides for the fee or charge imposed by a State regulatory, authorizing, or other governmental unit of local government.

(IN GENERAL.—No payment may be made to a State under this section unless such State provides not less than 90 percent of the Federal share of the expenditures under the medicaid plan.

(2) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such expenditures shall not include amounts made available by the Federal Government and any other State funds which are used to match Federal funds under Federal programs other than under this title.

(2) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such expenditures shall not include amounts made available by transfers from other State and local programs.

(3) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such expenditures shall not include amounts made available by transfers from other State and local programs.

(4) EXCLUSION OF FEDERAL AMOUNTS.—Such expenditures shall not include amounts made available by transfers from other State and local programs.

(5) STATE FISCAL YEAR.—No payment shall be made to a State under this section with respect to a specified fiscal year under a medicaid plan approved under this title in an amount not less than the adjusted base year State expenditures plus an applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.

(6) REDUCTION IN ALLOTMENT IF EXPENDITURE LIMIT NOT MET.—In the event a State fails to expend State funds in an amount required by this section, the Secretary shall reduce the allotment provided under this title for such fiscal year by an amount which bears the same ratio to such outlay allotment as the State funds expended in such fiscal year bears to the amount required by subparagraph (A).

63.01 (B) QUALIFIED STATE.—For purposes of this paragraph, the term 'qualified State is a State—

(c) LIMITATION.—No Federal financial assistance is available for expenditures under the medicaid plan for medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter.

(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency services, not including hospital emergency room services.

(3) LIMITATION.—No Federal financial assistance is available for expenditures under the medicaid plan for medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter.

(4) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided under its medicaid plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 6013) of the Employee Retirement Income Security Act of 1974), a service benefit

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TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided under its medicaid plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 6013) of the Employee Retirement Income Security Act of 1974), a service benefit

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plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under this part.

(e) MEDICAID AS SECONDARY PAYER.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for services or items furnished to an individual under its medical plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in regulations) under any other Federal or State program.

(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

(A) such care and services are necessary for the treatment of an emergency medical condition of the alien;

(B) such alien otherwise meets the eligibility requirements for medical assistance under the medicaid plan (other than requirements of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment); and

(C) such care and services are not related to an organ transplant procedure.

(3) EXCLUSION.—The medicaid plan shall—

(A) provide the Secretary with a copy of the audit report, including the State’s response to any recommendations of the auditor; and

(B) make the audit report available for public inspection in the same manner as provided in section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

(F) AUTHORITY.—In addition to any other authority provided, a State may exclude any individual or entity for purposes of participation under the medicaid plan for any reason for which the Secretary could exclude the individual or entity under title XVII or under section 1128A, or 1866(i)(2).

(4) NOTICE.—The medicaid plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

(5) ACCESS TO INFORMATION.—The medicaid plan shall provide that the State will provide information and access to such information required to determine and enforcing compliance with this part.
"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h));

(4) review of complaints—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the Medicaid plan approved under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(a) In general—Each Medicaid plan shall provide for a State Medicaid fraud control unit that effectively carries out the functions and requirements of such subsection, the Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall preclude the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2131. STATE MEDICAID FRAUD CONTROL UNITS.

(a) In general—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2132. RECOVERIES FROM THIRD PARTIES AND OTHERS.

(a) Third party liability—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2135. OVERPAYMENTS.

(a) In general—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2134. STATE MEDICAID FRAUD CONTROL UNITS.

(a) In general—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2133. RECOVERIES FROM THIRD PARTIES AND OTHERS.

(a) Third party liability—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2135. OVERPAYMENTS.

(a) In general—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2134. STATE MEDICAID FRAUD CONTROL UNITS.

(a) In general—Each Medicaid plan shall provide that payments for benefits to the Medicaid plan to health care providers of such assistance under the Medicaid plan approved under this title and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(b) Appropriate coordination—The State shall provide for maximum appropriate coordination in the implementation of subsection (a) and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.
amount so withheld may not exceed the maximum amount permitted to be withheld under section 301(b) of the Consumer Credit Protection Act, and to provide insurance against the default of the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employer’s share of such premiums.

(D) A law that prohibits an insurer from imposing requirements on a State agency, which has established or designated under section 454(3) a State plan, that the insurer is required by Court or administrative order to support or payment assigned under this section (c).

(2) Withholding from pay of and requires withholding from pay of and requires withholding from pay of any amount collected by the State under an assignment made under the provisions of this section.

(3) To provide for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

(4) ON BEREAVEMENT—A State may grant a waiver under subparagraph (A) shall be subject to—

(i) the penalty described in subparagraph (b); and

(ii) the penalty described in subparagraph (c) for failing to meet the requirements of section 1919, as in effect.

(5) No WAIVER OF REQUIREMENTS.—A State agency for expenditures for such costs under the State plan approved under this title, the agency shall provide for public comment on such application.

(6) OTHER PROVISIONS PROMOTING PLAN INTEGRITY—

(a) PUBLIC ACCESS AND SURVEY RESULTS.—Each Medicaid plan shall provide that upon completion of a survey or other audit of a State agency to carry out its responsibilities under this title, the agency shall make public in a readily available form and place the pertinent findings of the survey relating to the compliance of the State agency with the requirements of law.

(b) RECORD KEEPING.—Each Medicaid plan shall provide for agreements with persons or institutions providing services under the plan for which the State agency with such information regarding any payments claimed by such persons or institutions for providing services under the plan, as the State agency may from time to time request.

PART E—ESTABLISHMENT AND AMENDMENT OF MEDICARE PLANS

SEC. 2131. SUBMITTAL AND APPROVAL OF MEDICARE PLANS

(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a Medicaid plan that meets the applicable requirements of this title.

(b) APPROVAL.—Except as may be provided under section 2153, a Medicaid plan submitted under subsection (a) shall be approved for purposes of this section and shall be effective as provided in subsection (c) if the Secretary makes a determination that the plan meets the requirements of this section.

(c) EFFECTIVE DATES FOR AMENDMENTS.—

(1) shall be approved for purposes of this title; and

(2) shall be effective as provided in subsection (b) if the Secretary makes a determination that the plan meets the requirements of this section.

(3) EFFECTIVE DATES FOR AMENDMENTS.—

(a) AUTHORITY TO SEEK WAIVER.—Any State may apply for a waiver of any law, regulation, or requirement of the Secretary that is inconsistent with the requirements of this title.

(b) REQUIREMENTS FOR WAIVER APPLICATION.—An application for a waiver of any State law, regulation, or requirement of the Secretary shall include—

(i) a statement of the circumstances under which the waiver is sought;

(ii) a statement of the nature and extent of the waiver sought;

(iii) a statement of the expected benefits to the State that would result from the waiver;

(iv) a statement of the proposed use of the waiver funds;

(v) a statement of any limitations on the use of the waiver funds;

(vi) a statement of any conditions attached to the waiver;

(vii) a statement of any other information required by the Secretary.

(c) APPROVAL OF WAIVER APPLICATION.—The Secretary shall approve or deny an application for a waiver as provided in subsection (b) if the Secretary makes a determination that the plan meets the requirements of this section.

(4) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility
or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the changes and any related administrative procedures provided under applicable State law.

"(B) TIMELY TRANSMITAL.—Any plan amendment or changes to the plan on which a Medicaid plan or plan amendment has been transmitted to the Secretary for review shall be submitted to the Secretary not later than 30 days after the date of the Secretary's receipt of the notice of the determination.

"(C) TIMELINESS IN ADMINISTRATION OF PLAN.—

"(1) In General.—If the Secretary, during the 30-day period beginning on the date of submission of a Medicaid plan or plan amendment, determines that the plan or amendment substantially violates an applicable provision of this part, the Secretary shall issue a written notice of such determination to the State.

"(2) Effect of Notice.—In the case of a determination that the plan or amendment substantially violates an applicable provision of this part, the Secretary shall issue a written notice of such determination to the State. Such a written notice shall not be effective, except as provided in this subsection, until the date on which the written notice is delivered to the State, unless the Secretary determines and notifies the State in writing that the State has failed to correct the violation.

"(3) Time Periods.—The time periods specified in paragraph (2) may be extended by written agreement of the Secretary and the State involved.

"(4) Violations in the Administration of the Medicaid Plan.—

"(A) In General.—If the Secretary determines that the plan or amendment substantially violates a requirement of this part, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall be effective upon the date of the written notice, unless the Secretary determines and notifies the State in writing that the State has failed to correct the violation.

"(B) Effectiveness.—As the Secretary issues and implements the plan or amendment, the order to remedy such violation shall be effective, except as provided in subsection (C), beginning at the end of the period specified in the written notice. Such an order may include the withholding of funds, consistent with subsection (B), for part of the Medicaid plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(C) Effectiveness.—As the Secretary issues and implements the plan or amendment, the order to remedy such violation shall be effective, except as provided in subsection (B), beginning at the end of the period specified in the written notice. Such an order may include the withholding of funds, consistent with subsection (B), for part of the Medicaid plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(D) Revision Retroactive.—If the revision provides for substantial compliance, the revision may be treated, at the option of the Secretary, as being effective either as of the effective date of the provision to which it relates or such later date as the Secretary may agree.

"(E) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—The Secretary may respond to an order under subsection (D) by submitting a request for a reconsideration or a hearing under paragraph (2).

"(F) JUDICIAL REVIEW.—

"(1) GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for the judicial review of such determination. The petition shall be forthwith transmitted by the clerk of the circuit court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based as provided in section 2121 of title 28, United States Code.

"(2) STANDARDS FOR REVIEW.—The findings of fact by the Secretary or an administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may set aside the order of the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may make a premodified determination, and shall certify to the court the transcript and record of the further
proceedings. Such new or modified findings of law shall likewise be conclusive if supported by substantial evidence.

SEC. 2151. SECRETARIAL AUTHORITY.

(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory agreement concerning the approval of a Medicaid plan (or amendments to a Medicaid plan) or the compliance of a Medicaid plan (including its administration) with requirements of this title.

(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of Medicaid plans (or amendments to such plans) or the compliance of a Medicaid plan (including its administration) with requirements of this title. Such authority may not be further delegated by the Secretary to any other individual, including any regional official of such Administration.

(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a procedure for formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

PART F—GENERAL PROVISIONS

SEC. 2171. DEFINITIONS.

(a) MEDICAL ASSISTANCE.—

"(1) IN GENERAL.—For purposes of this title, except as provided in paragraphs (2) and (3), the term 'medical assistance' means payment of part or all of the costs of such health services for individuals who are eligible low-income individuals as defined in subsection (b) as specified under the Medicaid plan:

(A) Inpatient hospital services.

(B) Outpatient hospital services.

(C) Physician services.

(D) Surgical services.

(E) Clinic services and other ambulatory health care services.

(F) Nursing facility services.

(G) Intermediate care facility services for the mentally retarded.

(H) Prescription drugs and biologicals.

(I) Laboratory and radiological services.

(J) Family planning services and supplies.

(K) Acute inpatient hospital health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured service.

(L) Outpatient mental health services, including psychiatrists' rehabilitation, day treatment, intensive in-home services for children, and partial hospitalization.

(M) Durable medical equipment and other medically-necessary services (such as eyewears, prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

(N) Disposible medical supplies.

(O) Home health and community-based services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

(P) Community supported living arrangements.

(Q) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) for a home, school, or other setting.

(R) Dental services.

(S) Inpatient substance abuse treatment services and residential substance abuse treatment services.

(T) Outpatient substance abuse treatment services.

(V) Case management services.

(W) Care coordination services.

(X) Physical therapy, occupational therapy, and speech-language pathology services.

(Y) Hospice care.

(Z) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and if the service is:

(i) prescribed or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law and if the service is:

(1) performed under the general supervision or at the direction of a physician, or

(ii) furnished by a health care facility that is approved by a State or local government or is licensed by State law and operating within the scope of the license.

(A) A PRESCRIPTION.—Any prescription for private health care insurance coverage, including private long-term care insurance coverage.

(B) Medical transportation.

(C) Medicare cost-sharing (as defined in subsection (c)).

(D) Enabling services (such as transportation, translation, and outreach services) designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

(E) Any other health care services or items specified by the Secretary.

(2) EXCLUSION OF CERTAIN PAYMENTS.—Such term does not include the payment with respect to care or services for—

(A) Any individual who is an inmate of a public institution (except as a patient in a State psychiatric hospital); and

(B) Any individual who is not an eligible low-income individual.

(3) CLARIFICATION OF VACCINE PURCHASES.—Such term includes, for any fiscal year, payment for the purchase of vaccines through contracts negotiated with the Centers for Disease Control and Prevention under section 317 of the Public Health Service Act, but only if—

(A) the State has expended all grant funds available for such purchase under such section 317 for all fiscal years preceding such fiscal year; and

(B) the total number of doses of each vaccine purchased by each State during such fiscal year exceeds—

(i) the number of doses of each vaccine sufficient to immunize, according to the immunization schedule specified by the State, the annual birth cohort of children in targeted low-income families (as defined in section 1111(a)(2)), less 10 percent of the number of doses of each vaccine purchased by the State during the preceding fiscal year with funds available under such section 317;

(ii) the number of doses of each vaccine purchased by the State for the MMC vaccine in accordance with section 1111(a)(2); and

(iii) the number of doses of each vaccine purchased by the State for the P-19 vaccine in accordance with section 1111(a)(2).

(4) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

(A) Premiums under section 1858.

(B) Premiums under section 1818 or 1814A.

(C) Coinsurance under title XVIII, including coinsurance described in section 1833.

(D) Any other contractual cost-sharing established under title XVIII, including those described in section 1813 and section 1833(b).

(E) Any difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

(F) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a Medicare Choice organization under part D of title XVIII.

(5) ADDITIONAL DEFINITIONS.—For purposes of this title:

(A) CHILD.—The term 'child' means an individual under 18 years of age.

(B) POVERTY LINE DEFINED.—The term 'poverty line' means the level of income determined by the Secretary by reference to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revisions required by such legislation.

(C) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 90-day period beginning on the last day of the pregnancy.

(D) RETIREMENT AGE.—The term 'retirement age' has the meaning given such term by section 216(l)(1).

SEC. 2172. TREATMENT OF TERRITORIES.—

(A) ANY PROVISION.—(1) In general.—Any provision of this title, except as otherwise provided, shall apply to the Territories of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, the U.S. Virgin Islands, and American Samoa.

cept section 373 and subsection (c) of section 377 of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revisions required by such legislation.

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cept section 373 and subsection (c) of section 377 of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revisions required by such legislation.
(1) the Federal medical assistance percentage.
(2) the limitation on total payments in a fiscal year, in the amount of the allotment under section 2121(c); or
(3) the requirement that payment may be made for medical assistance only with respect to amounts and items described in paragraph (1) of section 211(a) and medically-related services as defined in section 211(d)(2).

SEC. 2171. DESCRIPTION OF TREATMENT OF INDIAN HEALTH PROGRAMS.

"In the case of a State in which one or more Indian health programs described in section 2122(2) are operated, the medicaid plan shall include a description of—

(1) what provision (if any) has been made for payment for items and services furnished by such programs; and
(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX—

(1) Section 1101(a)(1) (relating to definition of State).
(2) Section 1116 (relating to administrative and procedural rules).
(3) Section 1124 (relating to disclosure of information about certain convicted individuals).
(4) Section 1132 (relating to periods within which claims may be filed).
(5) ANTI-FRAUD PROVISIONS—

(1) IN GENERAL.—Section 1128(b)(1) (42 U.S.C. 1320a-7(b)(1)) is amended by inserting "or a medicaid plan under title XIX" after "title XIX.
(2) PENALTIES FOR THE FRAUDULENT CONVERSION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.—Section 1128B(b) (42 U.S.C. 1320a-7(b)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), assignment (including assignment for the benefit of creditors, in order to convert or to enable an individual to become eligible for benefits under a State health care program.

(3) CONTINUED ROLE OF INSPECTOR GENERAL.—

The Inspector General in the Department of Health and Human Services shall have the same responsibilities and duties in relation to fraud and abuse and related matters under the medicaid program under title XXI of the Social Security Act as such Inspector General has had in relation to the medicare program under title XVIII of such Act before the date of the enactment of this Act.

(4) CERTIFIED AMOUNT FOR PUERTO RICO.—

Paragraph (1) of section 1136(c) (42 U.S.C. 1320a-7(b)) is amended by striking "$116,500,000 for fiscal year 1994" and inserting "$200,000,000 for fiscal year 1994.

(5) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

(a) IN GENERAL.—Subject to paragraph (2), section 319A (42 U.S.C. 1360a) is repealed.
(2) TRANSITION.—

(A) NO EFFECT ON CERTAIN DISTRIBUTIONS.—Such repeal shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act.
(B) NO PURCHASES AFTER ENACTMENT.—

No vaccine shall be purchased after the date of the enactment of this Act by the Federal Government or any State under section 1926(g) of the Social Security Act.

(6) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.

(1) IN GENERAL.—Title XIX is amended—

(A) by redesignating section 1911 as section 1931; and
(B) by inserting after section 1930 the following new section:

"TERMINATION OF PROGRAM; LIMITATION ON NEW OBLIGATION AUTHORITY

SEC. 1931. (a) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this Act, (B) is otherwise complying with the requirements of this section, including the formula for computing the amount of such obligation limitation.

(b) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under this title with respect to an obligation incurred before the date of the enactment of this section, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses incurred on or after the following: (A) October 1, 1995; or (B) the first day of the first quarter on which the State plan under title XIX is first effective.

(c) AGREEMENT.—A State's submission of claims for care and services described in paragraph (1) applies is deemed to constitute the State's acceptance of the obligation limitation under such paragraph, including the formula for computing the amount of such obligation limitation.

(d) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

(A) IN GENERAL.—Title XXI is amended—

(1) by adding at the end the following new subsection:

"(g) NO APPLICATION OF PRIOR MEDICAID JUDGMENTS TO NEW MEDICAID PROGRAM.—No judicial or administrative decision rendered regarding a payment or payment for items and services furnished by the Federal Government or any State under title XIX of the Social Security Act with respect to a State shall have any application to the medicaid plan of the State title XXI of such Act. A State may, by agreement between the Secretary and the State, seek the abrogation or modification of any such decision after the date of the termination of the State plan under title XIX of such Act.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(I) SECRETARIAL SUBMISSION OF LEGISLATIVE HISTORY.—Title XI shall be amended by inserting "the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, sections 7111 and 7192.

(2) TRANSITIONAL RULE.—Any reference in any provision of title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision in effect on the day before the date of the enactment of this section.

SEC. 1192. MEDICAID DRUG REBATE PROGRAM

(a) IN GENERAL.—Title XIX, as added by section 7111, is amended—

(1) by inserting after section 2173, by adding at the end the following new section:

"SEC. 2175. MEDICAID DRUG REBATE AGREEMENTS.

(a) REQUIREMENT FOR REBATE AGREEMENT.—

In general.—Pursuant to section 2121(g), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall first enter into a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with a manufacturer), and must meet the requirements of paragraphs (2) with respect to drugs purchased on or after the first day of the month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992 and paragraph (6). Any such agreement entered into after the date of the enactment of this Act shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid or credited to the manufacturer under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991. If a manufacturer has not entered into such an agreement, such amounts shall be paid or credited directly to the State and used for such purposes as the State determines.
the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply to drugs dispensed under this title on or after January 1, 1991, except that such paragraph shall not apply to drugs purchased by a covered entity on or after the first day of the calendar quarter that begins more than 60 days after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug to a beneficiary under the medicare plan if (A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the medicare plan; (B) the State has entered into an agreement with the Secretary that meets the requirements of this paragraph; and (i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(3), (d)(4), or (d)(5) and the State has reviewed and approved the State’s determination under subparagraph (A); or (ii) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), (ii) the State has made a determination that in the first calendar quarter of 1991, there were extenuating circumstances.

(4) EFFECT ON EXISTING AGREEMENTS.—

(A) IN GENERAL.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of title IV of the Omnibus Budget Reconciliation Act of 1990, such agreement shall remain in effect until the expiration of the period specified therein, shall be considered to be a rebate agreement in effect under this section, and shall be reviewed by the Secretary in accordance with subsection (d).

(B) TERM OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 within 12 months of the date of the enactment of such section, the following requirements shall apply—

(i) Each manufacturer shall inform the single State agency under this title that it is seeking reimbursement from the medicare plan for medical assistance with respect to a unit of any covered outpatient drug so that it is subject to an agreement under section 340B(a) of such title.

(ii) Each such single State agency shall provide a means by which a covered entity shall determine whether the unit of a drug that is subject to the rebate is subject to an agreement under section 340B of such title. The Secretary shall not permit any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

(C) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

(D) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

(E) RECORD KEEPING RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 1126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

(2) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 1126 of title 38, United States Code, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

(F) CERTIFICATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 1126 of title 38, United States Code (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992).

(G) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 1126 of title 38, United States Code (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment).

(H) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 1126 of title 38, United States Code (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment).

(I) PENAL TIES.—

(1) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each medicaid plan approved under this title, a rebate agreement for each drug in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after December 31, 1990, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period to which such agreement relates. (B) OFFSET AGAINST MEDICAL ASSISTANCE.—

Amounts received by a State under this section from a manufacturer under an agreement described in subsection (a)(1) or an agreement described in subsection (a)(4) in any quarter shall be considered to be a reduction in the amount expended under the medical assistance program in the quarter for medical assistance for purposes of this title.

(3) AUTHORIZING PROVISIONS OF PRICE INFORMATION.—

(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each calendar quarter for medical assistance in its medical assistance plan an agreement with the Secretary or with the manufacturer under this subsection.

(B) REPORTS TO MANUFACTURERS.—Each State agency under this title shall report any rebate information provided to the Secretary pursuant to the agreement, and such report shall be made under a standard format reporting established by the Secretary. The Secretary shall not take into account any information that indicates that utilization was greater or less than the amount previously specified.

(4) MANUFACTURER PROVISION OF PRICE INFORMATION.—

(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary—

(i) not later than 30 days after the last day of each rebate period under the agreement (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (b)) for each covered outpatient drug for which the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Omnibus Budget Reconciliation Act of 1990, for which payment was made under the plan for the period, and shall promptly transmit a copy of such report to the Secretary.

(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.

(A) AGREEMENT WITH SECRETARY.—A manufacturer may enter into a rebate agreement with the Secretary if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the calendar quarter that begins more than 60 days after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

(B) TERMS OF REBATE AGREEMENT.—

(1) PERIODIC REBATES.—
successor manufacturer) may not be entered into any rebate agreement with a manufacturer described in section 8126(a) of title 38. United

AGREEMENTS. —The provisions under this section which is terminated, another

beginning at least 60 days after the date the effective date of such termination. Failure of a

shall not be disdosed by the Secretary or

ment with the Secretary of Veterans Affairs de-

sional Budget Office to review the information provided; and

view the information provided; and

(meaning, 'the first full calendar quarter after the day on which the drug was first marketed' for the calendar quarter beginning July 1, 1990 and the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for the

(B) TERMINATION.—

(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(ii), the 'applicable percentage' is 11 percent.

shall have authority, independent of the Secretary's authority under subparagraph (A), to apportion

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(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(ii), the 'applicable percentage' is 11 percent.
(d) LIMITATIONS ON COVERAGE OF DRUGS.—

(1) PERMISSIBLE RESTRICTIONS.—

(A) IN GENERAL.—A State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (2) or (3).

(B) ADDITIONAL RESTRICTIONS.—A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

(i) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4); or

(ii) the formulary includes the covered outpatient drug in its formulary established in accordance with paragraph (4).

(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

(A) Agents used for anorexia, weight loss, or weight gain.

(B) Agents when used to promote fertility.

(C) Agents when used for cosmetic purposes or hair growth.

(D) Agents when used for the symptomatic relief of cough and colds.

(E) Agents when used to promote smoking cessation.

(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

(G) Nonprescription drugs.

(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

(I) Barbiturates.

(J) Benzodiazepines.

(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically add to the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

(4) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary if the formulary meets the following requirements:

(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, by the appropriate board established under subsection (f)(3)).

(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a)(2) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

(C) A covered outpatient drug may be excluded from the formulary in connection with the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescription use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is medically accepted indication, based on information from the appropriate regulatory agency or other source of information, the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment or condition over other drugs included in the formulary and there is a written explanation (available to the public) of the reasons for the exclusion.

(D) The State shall permit coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (3).

(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of the beneficiaries. A prior authorization program established by a State under paragraph (3) is not a formulary subject to such program.

(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—A Medicaid plan approved under this title may require, as a condition of coverage and payment of a nonprescription drug for which Federal financial participation is available in accordance with this section, with respect to drugs dispensed on or after July 1, 1991, the prior approval of the Secretary for any medically accepted indication (as defined in subsection (j)(6)) only if the system providing for such approval—

(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

(B) shall comply with the requirements of paragraph (2), or their medical uses, which the State has determined to be subject to clinical abuse or inappropriate use, or severe adverse reactions to drugs.

(E) Estabishment of upper payment limit.—The Health Care Financing Administration shall establish a Federal upper reimbursement limit for each multiple source drug for which the FDA has rated three or more products therapeutically and pharmacologically equivalent, regardless of whether all such additional formulations are rated as such and shall use only such formulations when determining any such upper limit.

(D) Drug Use Review.—

(1) IN GENERAL.—A State participating in the Medicare Part D program may require the prescription drug claims program, in connection with coverage for a prescription drug, to submit to the Secretary reports of drug use patterns that may be a cause of waste, fraud, or abuse.

(2) AVERAGE MANUFACTURER PRICE—The program shall calculate the average manufacturer price for each drug on the formulary, in accordance with section 16250 of this title, and report to the Secretary the average manufacturer price of each drug on the formulary.

(E) Barbell limitation agreements under this section shall not be enforced against any person, including a State, in any manner authorized under this Act.

(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in section 16250 is intended to prohibit a State from providing for such approval, and any manner authorized under this Act.

(F) EXPENDITURE FOR CAPITALIZED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the Medicaid rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through State hospitals or any entity financed in whole or in part with Federal funds.

(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs.

(3) DEFINITIONS.—For purposes of this section—

(A) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to covered outpatient drugs, the average price paid to the manufacturer for each drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts available to wholesalers.

(B) COVERED OUTPATIENT DRUG.—Except as the exceptions in paragraph (3), the term 'covered outpatient drug' means—

(i) those drugs which are treated as prescription drugs for purposes of this title, a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)); and—

(ii) which is approved as a prescription drug under section 351 of the Federal Food, Drug, and Cosmetic Act.

(4) (i) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310 of the Code of Federal Regulations) to such a drug, and (ii) which has not been the subject of a final determination by the Secretary that it is a new drug (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301(a) or 302(a) of such Act, or

(5) (i) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the manufacturer has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (ii) which the Secretary has not issued a notice of an opportunity for a hearing under section 301(a) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug.
drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling.

(ii) a biological product, other than a vaccine which—

(iii) may only be dispensed upon prescription.

(iv) is licensed under section 351 of the Public Health Service Act.

(v) is produced at an establishment licensed under section 357 of the Federal Food, Drug, and Cosmetic Act; and

(w) the product, or insulin provided as part of a covered outpatient drug, is administered or supervised by a physician (or other person authorized to prescribe under State law).

(B) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of a covered outpatient drug, for which there are 2 or more drug products to be rated as therapeutically equivalent.

(ii) MULTIPLE SOURCE DRUG; INNOVATOR DRUG; GENERIC DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary shall establish national listing of average wholesale prices for the fiscal year.

(2) IN IN GENERAL.—Except as provided in paragraph (1), the Secretary shall make available to the public through retail pharmacies in that State.

(3) RETROACTIVE APPLICATION OF CERTAIN AMENDMENTS.—

(a) SEC. 2175. Medicaid drug rebate agreement.

(b) The Secretary shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

(c) SEC. 1193. WAIVERS.

(1) CONTINUATION OF WAIVERS.—

(2) IN GENERAL.—A State may continue a waiver that was in effect on October 30, 1995.

(3) CONSIDERATION OF WASHINGTON.—

(4) IN GENERAL.—A State may terminate a waiver to the extent that such payment does not exceed the payment otherwise receive for the fiscal year.

(5) DATE DESCRIBED.—The date described in subparagraph (B), submits a report to the Secretary of Health and Human Services summarizing the waiver and any available information concerning the result or effect of such waiver.

(6) HOLD HARMLESS PROVISION.—

(b) STATE OPTION TO TERMINATE WAIVER.—

(1) IN GENERAL.—A State which terminates a waiver to the extent that such payment does not exceed the payment otherwise receive for the fiscal year.

(2) EFFECTIVE DATE.—The date described in subparagraph (B), submits a report to the Secretary of Health and Human Services summarizing the waiver and any available information concerning the result or effect of such waiver.

(3) CONTINUATION OF INDIVIDUAL WAIVERS.—

(b) IN GENERAL.—A State may elect to continue one or more individual waivers described in subsection (a),(c), and (d) of section 1902 of the Social Security Act, for which the Secretary determines that the waiver, subject to the terms and conditions of such waiver.

(C) IMPACT ON RETAIL PHARMACIES.—

(b) IN GENERAL.—A State may elect to continue one or more individual waivers described in subsection (a),(c), and (d) of section 1902 of the Social Security Act, for which the Secretary determines that the waiver, subject to the terms and conditions of such waiver.

(2) IN GENERAL.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver, as added by section 7191(b), such State would otherwise receive for the fiscal year.

(7) RETROACTIVE APPLICATION OF CERTAIN AMENDMENTS.—

(a) SEC. 2175. Medicaid drug rebate agreement.

(b) The Secretary shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.
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Secretary of Health and Human Services (in this section referred to as the "Secretary") shall, through the Health Care Financing Administration, designate a system to identify children with special health care needs.

(1) CHILDREN WITH SPECIAL HEALTH CARE NEEDS—For purposes of this section, children with special health care needs are children—

(A) with conditions which are, or can be anticipated to be, of such a nature as to require chronic or ongoing infant, child, and youth care beyond that required by children generally; or

(B) who require services significantly greater than those which are typically required by children generally.

(2) REQUIREMENTS OF CLASSIFICATION SYSTEM—The classification system developed in accordance with this section—

(A) shall be based on commonly recognized diagnosis and condition categories; and

(B) shall be compatible with State and health plan data systems.

(3) APPLICATIONS—Each State desiring to conduct a demonstration project in accordance with this section shall—

(A) submit to the Secretary a plan containing the following:

(i) A description of the conditions which are likely to require significant expenditures for care for children with special health care needs; and

(ii) plans to develop a national, quantifiable classification system to identify children with special health care needs.

(B) APPROPRIATE REPRESENTATIVES—The design and implementation of such a project shall include representatives of providers of services to children, the Secretary, and appropriate State agencies and programs.

(3) APPLICATIONS—Each State desiring to conduct a demonstration project under this subsection, including programs which are statewide, state, or coalition of States, shall—

(A) describe the conditions which are likely to require significant expenditures for care for children with special health care needs.

(B) describe the plans to develop a national, quantifiable classification system to identify children with special health care needs.

(C) submit to the Secretary a plan containing the following:

(i) Adequate representation of providers of services to children, the State and appropriate State agencies and programs.

(ii) Plans to develop a national, quantifiable classification system to identify children with special health care needs.

In addition, the plan shall describe the criteria to be used to identify children with special health care needs.

(4) FUNDING—Each State, or coalition of States, shall designate entities to directly receive and deliver services to children with special health care needs.

(5) BUDGET NEUTRALITY—The aggregate amount of Federal funds that would otherwise have been made under the Medicare and Medicaid programs to participate in demonstration projects under this section is estimated at not more than $190,000,000 in fiscal year 1997.

(6) DURATION—The demonstration projects conducted under this section shall be conducted for a 3-year period, subject to annual review and approval by the Secretary.
(2) TERMINATION.—The Secretary may, with 90 days’ notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(3) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) An analysis of the quality of the services delivered under the project.

(2) An analysis of the quality of the services delivered under the project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the Medicaid and Medicare programs as a result of the demonstration project.

Subpart C—Grant Agreements for Temporary Assistance for Needy Families

SEC. 7200. SHORT TITLE.

This subtitle may be cited as the “Work Opportunity Act of 1998”.

SEC. 7201. BLOCK GRANTS TO STATES.

(a) REPEALS.

(1) IN GENERAL.—Parts A and F of title IV (42 U.S.C. 601 et seq. and 682 et seq.) are hereby repealed.

(b) RULES AND REGULATIONS.—The Secretary of Health and Human Services shall ensure that any rules and regulations relating to the provisions of law repealed in paragraph (1) shall cease to have effect on and after the due date of the repeal of such provisions.

(2) BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEedy FAMILIES WITH MINOR CHILDREN—Title IV (42 U.S.C. 601 et seq.) is amended by inserting before part B the following:

“PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDED FAMILIES WITH MINOR CHILDREN

SEC. 400. NO INDIVIDUAL ENTITLEMENT.

Notwithstanding any other provision of law, no individual is entitled to any assistance under this part.

SEC. 401. PURPOSE.

The purpose of this part is to increase the flexibility of States in operating a program designed to—

(1) provide assistance to needy families with minor children;

(2) provide job preparation and opportunities for such families; and

(3) prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish annual goals for preventing and reducing such pregnancies with respect to fiscal years 1998 through 2000.

SEC. 402. ELIGIBLE STATES: STATE PLAN.

(a) IN GENERAL.—As used in this part, the term “eligible States” means, with respect to a fiscal year, a State that has submitted to the Secretary a plan that includes the following:

(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—A written document that outlines how the State intends to do the following:

(A) Conduct a program designed to serve all political subdivisions in the State to—

(i) provide assistance to needy families with not less than 1 minor child (or any expectant family), and

(ii) provide a parent or caretaker in such families with work experience, assistance in finding employment, and other work preparation activities and support services that the State considers appropriate to enable such families to leave the program and become self-sufficient.

(B) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) when the State determines that the parent or caretaker is ready to engage in work, or after 24 months (whether or not consecutive) of receiving assistance under the program, whichever is earlier.

(C) Satisfy the minimum participation rates specified in section 404.

(D) Treat—

(i) families with minor children moving into the State from another State, and

(ii) noncitizens of the United States.

(E) Specify and restrict the use and disclosure of information about individuals and families receiving assistance under the program.

(F) Establish a system of program evaluation to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies.

(G) COMMUNITY SERVICE.—Not later than 2 years after the date of the enactment of this Act, consistent with the exception provided in section 404(g), require participation by, and offer to, unless the State opts out of this provision by notifying the Secretary, a parent or caretaker receiving assistance under the program, after receiving such assistance for 3 months—

(i) is not exempt from work requirements; and

(ii) is not exempt from work requirements.

(H) PROVIDE ACCESS TO INDIANS.—In recognition of the Federal Government’s trust responsibility to, and government-to-government relationship with, Indian tribes, the Secretary shall ensure that States receive at least the equivalent of the funding to which they are entitled under the State plan by requiring by a certification by the chief executive officer of each State described in paragraph (2) that, during the fiscal year, the State shall provide Indian children in each Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year with equitable access to a child support enforcement program under the State plan.

(II) IN GENERAL.—In recognition of the Federal Government’s trust responsibility to, and government-to-government relationship with, Indian tribes, the Secretary shall ensure that States receive at least the equivalent of the funding to which they are entitled under the State plan by requiring by a certification by the chief executive officer of each State described in paragraph (2) that, during the fiscal year, the State shall provide Indians in each Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year with equitable access to a child support enforcement program under the State plan.

(III) DISTRIBUTION OF STATE PLAN.—(1) PUBLIC AVAILABILITY OF SUMMARY.—The State shall make available to the public a summary of the State plan submitted under this section.

(II) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E.

(III) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E.

(IV) CERTIFICATION THAT THE STATE WILL PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will participate in the income and eligibility verification system required by section 1137.

(5) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies are responsible for the administration and supervision of the State program for the fiscal year, and which local governments and private sector organizations have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations.

(6) CERTIFICATION THAT REQUIRED REPORTS WERE SUBMITTED TO THE SECRETARY.—A certification by the chief executive officer of the State that the State shall provide the Secretary with any reports required under this part.

(7) CERTIFICATION THAT THE STATE WILL PROVIDE ACCESS TO INDIANS.—In general, in recognition of the Federal Government’s trust responsibility to, and government-to-government relationship with, Indian tribes, the Secretary shall ensure that States receive at least the equivalent of the funding to which they are entitled under the State plan by requiring by a certification by the chief executive officer of each State described in paragraph (2) that, during the fiscal year, the State shall provide Indians in each Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year with equitable access to a child support enforcement program under the State plan.

(II) STATE DESCRIBED.—For purposes of paragraph (1), “State” means a State in which there is an Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year.

(III) DISTRIBUTION OF STATE PLAN.—(1) PUBLIC AVAILABILITY OF SUMMARY.—The State shall make available to the public a summary of the State plan submitted under this section.

(II) COPY TO AUDITOR.—The State shall provide the approved entity conducting the audit under section 688 with a copy of the State plan submitted under this section.

(9) DEFINITIONS.—For purposes of this part, the following definitions shall apply:

(1) ADULT.—The term “adult” means an individual who is not a minor child.

(2) Minor Child.—The term “minor child” means an individual—

(A) who has not attained 18 years of age; or

(B) who has not attained 18 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical school) and

(C) who resides with such individual’s custodial parent or other caretaker relative.

(III) FISCAL YEAR.—The term “fiscal year” means any 12-month period ending on September 30 of a calendar year.

(IV) INDIAN TRIBE AND TRIBAL ORGANIZATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “Indian tribe” and “tribal organization” have the meaning given such terms by section 4 of the Indian

(II) IN ALASKA.—For purposes of making tribal
family assistance grants under section 418 for
benefits paid to the State for the preceding fiscal year not
than 2 years from such fiscal year, and for fiscal

(iii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a)(2)) for

(ii) ADJUSTMENTS.—The payments described in
clause (i) shall be—

(i) IN GENERAL.—The term 'State' includes
al Family Assistance Act of 1994. (as so in effect)

(ii) ADJUSTMENTS.—The grant to make
the purpose of providing, without fiscal
year for the purpose of providing, except that not
more than 15 percent of the

(i) IN GENERAL.—Subject to this title (as so in effect)

(i) ADJUSTMENTS.—For purposes of paragraph

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(ii) IN GENERAL.—For purposes of subparagraph

(ii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a)(2) for

(iii) STATE FAMILY ASSISTANCE GRANT.—

(iv) FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—A State to which a grant

(iii) Hold harmless.—In no event shall the historic State expenditures applicable to any fiscal year exceed the amount which bears the same relationship to the amount determined under

(ii) IN GENERAL.—The term 'tribal family assistance

(ii) HOLD HARMLESS.—In no event shall the historic State expenditures applicable to any fiscal year exceed the amount which bears the same relationship to the amount determined under

(iii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(ii) AMOUNT DETERMINABLE TO CERTAIN INDIAN TRIBES.—

(iii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(iii) AMOUNT DETERMINABLE TO CERTAIN INDIAN TRIBES.—

(i) AMOUNT DETERMINED UNDER STATE PLAN AMENDMENTS.—

(iii) AMOUNT DETERMINABLE TO CERTAIN INDIAN TRIBES.—

(ii) AMOUNT DETERMINABLE TO CERTAIN INDIAN TRIBES.—

(iii) IN GENERAL.—The term 'tribal family assistance

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(iii) IN GENERAL.—The term 'tribal family assistance

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(iii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

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paragraphs (A), (B), and (C) of section 418(a) for

(i) AMOUNT DETERMINED UNDER STATE PLAN AMENDMENTS.—

(iii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

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paragraphs (A), (B), and (C) of section 418(a) for

(i) AMOUNT DETERMINED UNDER STATE PLAN AMENDMENTS.—

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paragraphs (A), (B), and (C) of section 418(a) for

(i) AMOUNT DETERMINED UNDER STATE PLAN AMENDMENTS.—

(i) AMOUNT DETERMINED UNDER STATE PLAN AMENDMENTS.—

(2) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to

(iii) OF GRANT AMOUNTS.—A State may use up to 30 percent of amounts received from a grant under this part for a fiscal

(iii) OF GRANT AMOUNTS.—A State may use up to 30 percent of amounts received from a grant under this part for a fiscal

(i) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(i) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(ii) PROVISIONAL—In the case of a State that is also

(i) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(ii) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(i) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(i) AMOUNT DETERMINED UNDER STATE PLAN AMENDMENTS.—

(i) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(i) IN GENERAL.—For purposes of
paragraphs (A), (B), and (C) of section 418(a) for

(1) for fiscal year 1997, 1998, and 1999, and prior to the payment of each quarterly install-
"(3) AVAILABILITY.—Amounts in the fund are authorized to remain available until September 30, 2000, for the purposes of making loans and grants to eligible Indian tribes and providing assistance to such States on such loans, in accordance with this subsection.

(A) USE OF FUND.—The Secretary shall make loans from the fund to the eligible Indian tribe, as defined in subsection (D), for a period of not more than 3 years.

(B) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under subparagraph (A) at a rate equal to the average of the market yield on outstanding marketable obligations of the United States with an average life greater than 10 years, as determined by the Secretary, at the time of eachDrawing.

(C) LIMITATION ON USE OF LOAN.—A loan shall be used, and the proceeds thereof shall be used, only for the purpose of operating a program to make work activities available to members of the Indian tribe.

(D) ELIGIBLE INDIAN TRIBE.—For purposes of paragraphs (1) and (2), the term ‘eligible Indian tribe’ means an Indian tribe in Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1996 and has a poverty rate for 1995 of 30 percent or less, as determined by the Secretary in accordance with paragraph (1).
penalty described in paragraph (1)(A) or (2)(A) of subsection (d) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive); and

(III) the number of all families that received assistance under a Tribal or State program during this part of the previous 12-month period that have become ineligible to receive assistance during such period because of employment and which include an adult who is employed for the month divided by

(i) the total number of all families receiving assistance under the State program funded under a major grant during the month that include an adult receiving assistance.

(2) 2-PARENT FAMILIES.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

(3) 2-PARENT FAMILIES.—For purposes of subsection (a)(2), an adult is engaged in work in a month if the adult is participating in work for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 30 hours per week of which are attributable to a work activity:

- **If the month is:**
  - **1996:**
    - 1997: 20
    - 1998: 20
    - 1999: 20
  - **2000:** 35
  - **2001:** 35
  - **2002:** 35

(4) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of subsection (d)(2), vocational educational training shall be counted as work if the individual meets the following criteria:

- Under the State plan approved under section (c), the individual is participating in a work activity described in paragraph (2) of section 402(a)(7).
- The individual is not a minor child.
- The individual is engaged in work for at least 30 hours per week of which are attributable to a work activity.

(5) ENGAGED IN WORK.—(1) ALL FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work if the adult is participating in work for at least the minimum number of hours per week specified in the following table during the month, not fewer than 30 hours per week of which are attributable to a work activity:

<table>
<thead>
<tr>
<th>Year</th>
<th>Hours per week</th>
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<tbody>
<tr>
<td>1996</td>
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<td>1997</td>
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<td>35</td>
</tr>
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<td>2002</td>
<td>35</td>
</tr>
</tbody>
</table>

(6) PENALTIES AGAINST INDIVIDUALS.—(1) IN GENERAL.—Except as provided in paragraphs (3) and (4), a State may not reduce or terminate assistance under the State program funded under this part to a family that has entered into the plan in accordance with the State plan approved under section (c) if such individual provides child care services to other individuals participating in the community service program in the manner, and for the period of time each week, determined appropriate by the State.

(7) MINOR CHILD EXCEPTION.—If an individual received assistance under the State program

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operated under this part as a minor child in a needy family, any period during which such indi-
vidual's family received assistance shall not be con-
trolled for the purposes of applying the limitation described in paragraph (1) to an application for
assistance under such program by such individ-
ual as the head of a household of a needy family
or household.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The State may exempt a fa-
miliar from the application of paragraph (1) by
reason of hardship.

(B) LIMITATION.—The number of families with
respect to which an exemption made by a State
under paragraph (A) in effect for any fiscal year
shall not exceed 20 percent of the av-
ge monthly number of families to which the
State is providing assistance under the program
operated under this part.

(C) DENIAL OF ASSISTANCE FOR 10 YEARS TO A
PERSON FOUND TO HAVE FRATULently MIS-
REPRESENTED—In general, a State may deny
assistance to a minor child, if the State determines, for purposes of applying the limitation des-
dcribed in paragraph (1) to an application for
assistance under such program by such individ-
ual, that the child or the individual, upon whom
the individual is dependent, fraudulently mis-
represented on an application for assistance
the information necessary for the State to make
an accurate determination, or that the child is
a member of a family of which the individual
is excluded or has misrepresented the infor-
mation necessary for the determination of
assistance for the family.

(3) RESTRICTIONS.—

(A) Young women 17 and under who give
birth out of wedlock are more likely to experience
low verbal cognitive attain-
ments and a greater likelihood of becoming teen-
age parents themselves.

(B) The increase in the number of children
born out-of-wedlock was 6.200,000 in 1970;
and

(C) children born out-of-wedlock are more
likely to experience low birth weight.

(4) In 1992, only 54 percent of single-parent
families, nearly ½ of the mothers who never married received AFDC while only ½ of divorced mothers re-
ceived AFDC.

(5) The number of individuals receiving aid
to families with dependent children (hereafter in
this subsection referred to as "AFDC") has more
than tripled since 1965. More than two-thirds of
these recipients were single parents, and 90.8 per-
cent of children receiving AFDC benefits now
live in homes in which no father is present.

(A) The average monthly number of chil-
dren receiving AFDC benefits

... (ii) has information that is necessary for the
State to make an accurate determination, ...

(B) Young women 17 and under who give
birth outside of marriage are more likely to go
on public assistance and to spend more years on
welfare once enrolled. These combined effects of 'younger and longer' increase total AFDC costs
by 25 percent to 30 percent for 17-
year-olds.

(B) Children born out-of-wedlock have a sub-
stantially higher risk of being born at a very low birth weight.

(C) Children born out-of-wedlock are more likely
to experience low verbal cognitive attain-
ments, as well as more child abuse, and neglect.

(D) Children born out-of-wedlock were more likely
to have lower cognitive scores, lower edu-
cational aspirations, and a greater likelihood of becoming teenage parents themselves.

(E) Being born out-of-wedlock significantly
reduces the chances of the child growing up to
have an intact marriage.

(F) Children born out-of-wedlock are 3 more
times likely to be on welfare when they grow up.

(G) Currently 35 percent of children in single-
parent families have less than the same percentage as that of children in single-parent homes whose parents are divorced (37 percent).

(H) Among single-parent families, nearly ½ of
the mothers who never married received AFDC while only ¼ of divorced mothers re-
ceived AFDC.

(I) Mothers under 20 years of age are at the
greatest risk of bearing low birth-weight babies.

(J) The younger the single parent mother,
the less likely she is to finish high school.

(K) Children from single-parent homes are
very likely to fail and repeat a year in
grade school than are children from intact two-
parent families.

(L) Children from single-parent homes are
more likely to be expelled or sus-
pended from school.

(M) Neighborhoods with larger percentages of
younger people are more likely to be affected by, the large numbers of children born out of
wedlock.

(N) Of these youth held for criminal offenses within the State juvenile justice system, only
29.8 percent lived primarily in a home with both
parents. In contrast to these incarcerated youth, 90.8 percent of the Nation's resident population were living with both
parents.

(O) Therefore, in light of this demonstration of the crisis in our Nation's family, it is up to
the Congress that prevention of out-of-wedlock
pregnancy and reduction in out-of-wedlock
birth are very important Government interests and
the policy contained in provisions of this title is intended to address the crisis.
(B) REQUIREMENT THAT TEENAGE PARENTS LIVE IN ADULT-SUPERVISED SETTINGS.—

"(1) IN GENERAL.—For each fiscal year beginning after fiscal year 1992, the Secretary shall impose on any State that provides assistance under the State program (or in an alternative arrangement as the amount of the State grant described in subparagraph (A) on the basis of the degree of noncompliance.

"(2) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that a State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce by not more than 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(3) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs, the Secretary shall—

"(A) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system, the Secretary shall not reduce the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(B) LIMITATION ON AMOUNT OF PENALTY.—The Secretary may not impose a penalty on a State under subparagraph (A) for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(C) FOR FAILURE TO SATISFY UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under subsection (a) for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant otherwise payable to the State under section 403 for the immediately succeeding fiscal year (or, if a fiscal year in the income and eligibility verification system, the Secretary shall reduce by not more than 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(D) REASONABLE CAUSE FOR NONCOMPLIANCE.—The Secretary may not impose a penalty...
on a State under subsection (a) if the Secretary determines that the State has reasonable cause for believing that the State is not complying with a requirement of this part for which a penalty is imposed under such subsection.

'CERTIFICATION OF AMOUNT OF PENALTIES.—If the Secretary is required to reduce the amount of any grant under this section, the Secretary shall certify the amount of such reduction in the Treasury. The Secretary of the Treasury shall reduce the amount paid to the State under section 403 by such amount.

'(E) EFFECTIVE DATES.—

'(1) IN GENERAL.—The penalties described in paragraphs (2) through (6) of subsection (a) shall apply—

'(a) with respect to periods beginning 6 months after the Secretary issues final rules with respect to such penalties; or

'(b) with respect to fiscal years beginning on or after October 1, 1989, whichever is later.

'(F) MISUSE OF FUNDS.—The penalties described in subsection (a)(1) through (a)(6) shall apply with respect to fiscal years beginning on or after October 1, 1995.

'SEC. 406. AUDITS.

'(a) IN GENERAL.—Each State shall, not less than annually, audit the State expenditures from amounts received under this part. Such audit shall—

'(1) determine the extent to which such expenditures were or were not expended in accordance with this part; and

'(2) be conducted by an approved entity (as defined in subsection (b)) in accordance with generally accepted auditing principles.

'(b) APPROVED ENTITY.—For purposes of subsection (a), the term "approved entity" means an entity that—

'(1) is approved by the Secretary of the Treasury;

'(2) is independent of any agency administering activities funded under this part;

'(3) is approved by the chief executive officer of the State; and

'(4) is approved by the head of each agency administering activities under this part.

'(c) AUDIT REPORT.—Not later than 30 days following the completion of an audit under this subsection, a State shall submit a copy of the audit to the State legislature, the Secretary of the Treasury, and the Secretary of Health and Human Services.

'SEC. 406A. ADDITIONAL ACOUNTING REQUIREMENTS.—The provisions of chapter 7 of title 31, United States Code, shall apply to the audit requirements provided in subsection (a).

'SEC. 406B. DATA COLLECTION AND REPORTING.

'(a) IN GENERAL.—The Secretary, in consultation with State and local government officials and other interested persons, shall develop a quality assurance system of data collection and reporting that promotes accountability and ensures the improvement and integrity of programs funded under this part.

'(b) STATE SUBMISSIONS.—

'(1) IN GENERAL.—Not later than the 30th day of each fiscal quarter, each calendar quarter, or each month in the calendar quarter preceding the first day of each fiscal quarter that to which a grant is made under section 406(h) shall submit to the Secretary the data described in paragraphs (2) and (3) with respect to families described in paragraph (4) for—

'(i) families living in the States;

'(ii) families living in 2 or more States.

'(2) DISAGGREGATED DATA DESCRIBED.—The data described in paragraphs (2) and (3) shall include, for each family described in paragraph (4), the following:

'(A) The age of the adults and children (including the relationship of each child to the head of each family);

'(B) The marital and familial status of each member of the family (including whether the family is a single parent family and whether a child is living with an adult relative other than a parent);

'(C) The gender, educational level, work experience, and earnings of each member of the family (including whether any member of the family is seriously ill, disabled, or incapacitated and is being cared for by another member of the family);

'(D) The status of each member of the family (including whether any member of the family is living with an adult relative other than a parent);

'(E) The type and amount of any benefit or assistance received by the family, including—

'(i) the amount of and reason for any reduction in assistance; and

'(ii) if assistance is terminated, whether termination is due to employment, sanction, or time limit;

'(F) Any benefit or assistance received by a member of the family with respect to housing, food stamps, job training, or the Head Start program during the calendar quarter.

'(G) The number of months since the family filed the most recent application for assistance under the program and if assistance was denied, the reason for the denial.

'(H) The number of times a family has applied for and received assistance under the State program and the number of months assistance has been provided to the family.

'(I) The employment status of the adults in the family (including the number of hours worked and the amount earned).

'(J) The date on which an adult in the family began to work, the number of hours the adult engaged in work, the work activity in which the adult participated, and the amount of child care assistance provided to the adult (if any).

'(K) The number of individuals in each family receiving assistance and the number of individuals in each family not receiving assistance, and the relationship of each individual to the youngest child in the family.

'(L) The citizenship status of each member of the family.

'(M) The housing arrangement of each member of the family.

'(N) The amount of unearned income, child support, assets, and other financial factors considered in determining eligibility for assistance under the State program.

'(O) The location in the State of each family receiving assistance.

'(P) Any other data that the Secretary determines necessary to ensure efficient and effective program administration.

'(3) AGGREGATED MONTHLY DATA.—The data described in this paragraph is the following aggregated monthly data with respect to the families described in paragraph (4):

'(A) The number of families;

'(B) The number of children in each family;

'(C) The number of children in each family who are not receiving assistance; and

'(D) The number of families for which assistance has been terminated because of unemployment, sanctions, or time limit.

'(4) FAMILIES DESCRIBED.—The families described in this paragraph are—

'(A) families receiving assistance under a State program funded under this part for each month in the calendar quarter preceding the calendar quarter in which the data is submitted;

'(B) families applying for such assistance during such preceding calendar quarter and families that became ineligible to receive such assistance during such preceding calendar quarter;

'(C) families that became ineligible to receive such assistance during such preceding calendar quarter.

'(5) APPROPRIATE SUBSETS OF DATA COLLECTED.—The Secretary shall determine appropriate subsets of the data described in paragraphs (2) and (3) that a State is required to submit under paragraph (1) with respect to families described in subparagraphs (B) and (C) of paragraph (4).

'(6) SAMPLING AND OTHER METHODS.—The Secretary shall perform an audit under this part with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of each State's program. The Secretary is authorized to develop and implement procedures for verifying the quality of data submitted by the States.

'(D) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by subsection (a) for a fiscal year shall include a statement of the total amount expended by the State during the fiscal year under this part and the purposes for which such amount was spent.

'(E) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by subsection (a) for a fiscal year shall include the number of noncustodial parents in the State who participated in work activities during the fiscal year.

'(F) REPORT ON CHILD SUPPORT COLLECTED.—The report required by subsection (a) for a fiscal year shall include the total amount of child support collected by the State agency administering the State program under part D on behalf of a family receiving assistance under this part and the purposes for which such amount was spent.

'(G) REPORT ON TRANSITIONAL SERVICES.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for transitional services provided to a family that has ceased to receive assistance under this part because of employment.

'(H) REPORT ON DATA PROCESSING.—The report required by subsection (a) for a fiscal year shall include the total amount of data processing costs used to cover such costs or overhead.

'(I) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR HANDICAPPED FAMILIES.—The report required by subsection (a) for a fiscal year shall include a statement of the total amount expended by the State during the fiscal year under this part and the purposes for which such amount was spent.

'(J) REPORT ON CHILD SUPPORT COLLECTED.—The report required by subsection (a) for a fiscal year shall include the total amount of child support collected by the State agency administering the State program under part D on behalf of a family receiving assistance under this part.

'(K) REPORT ON APPLICATION FOR ASSISTANCE.—The report required by subsection (a) for a fiscal year shall include the total amount of applications for assistance filed during the fiscal year.

'(L) REPORT ON ADDITIONAL PROGRAM INFORMATION.—The report required by subsection (a) for a fiscal year shall include the total amount of child support collections; the total amount of child support collected by the State agency administering the State program under part D on behalf of a family receiving assistance under this part.

'(M) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR HANDICAPPED FAMILIES.—The report required by subsection (a) for a fiscal year shall include the total amount of data processing costs used to cover such costs or overhead.

'(N) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by subsection (a) for a fiscal year shall include the number of noncustodial parents in the State who participated in work activities during the fiscal year.

'(O) REPORT ON CHILD SUPPORT COLLECTED.—The report required by subsection (a) for a fiscal year shall include the total amount of child support collected by the State agency administering the State program under part D on behalf of a family receiving assistance under this part.
"(d) the characteristics of each State program funded under this part; and

SEC. 410. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

(a) Research.—The Secretary shall conduct research in the fields of welfare dependency, on the causes of and trends in employment and earnings of needy families with minor children.

(b) Development and Evaluation of Innovative Approaches to Reducing Welfare Dependency and Increasing Child Well-Being.—

(I) In General.—The Secretary may assist States in developing and, shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed under paragraph (A) and (B).

(II) Out-of-Wedlock Ratios.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (I) and the 5 States most recently ranked lowest under paragraph (I).

(I) Study.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and shall assess the effectiveness of innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

(II) Study on Alternative Outcomes Measures.—

(I) Study.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and shall assess the effectiveness of innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

(II) Study.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and shall assess the effectiveness of innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

(b) Development and Evaluation of Innovative Approaches to Reducing Welfare Dependency and Increasing Child Well-Being.—

(I) In General.—The Secretary may assist States in developing and, shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed under paragraph (A) and (B).

(II) Out-of-Wedlock Ratios.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (I) and the 5 States most recently ranked lowest under paragraph (I).

(I) Study.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and shall assess the effectiveness of innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

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(b) Development and Evaluation of Innovative Approaches to Reducing Welfare Dependency and Increasing Child Well-Being.—

(I) In General.—The Secretary may assist States in developing and, shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed under paragraph (A) and (B).

(II) Out-of-Wedlock Ratios.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (I) and the 5 States most recently ranked lowest under paragraph (I).

(I) Study.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and shall assess the effectiveness of innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

(II) Study on Alternative Outcomes Measures.—

(I) Study.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and shall assess the effectiveness of innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

(b) Annual Ranking of States and Review of Most and Least Successful Work Programs.—

(I) Annual Ranking of States.—The Secretary shall annually rank the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when possible, a practical method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving benefits under that program.

(II) Out-of-Wedlock Ratios.—The Secretary shall rank annually States to which grants are paid under section 403 based on the following ranking factors (developed with information reported by the States), ranked according to the Secretary's assessment of the impact of innovative approaches on the work experience, assistance in finding employment, and other work preparation activities and support services to help recipients of such payments to leave the program and become self-sufficient.

(III) Annual Ranking of States and Review of Issuers Relating to Out-of-Wedlock Births.—

(I) Annual Ranking of States.—

(II) Absolute Out-of-Wedlock Ratios.—The ratio represented by—


(A) IN GENERAL.—The Secretary shall annually rank States to which grants are paid under section 403 based on the following ranking factors (developed with information reported by the States), ranked according to the Secretary's assessment of the impact of innovative approaches on the work experience, assistance in finding employment, and other work preparation activities and support services to help recipients of such payments to leave the program and become self-sufficient.

(II) Annual Ranking of States and Review of Issuers Relating to Out-of-Wedlock Births.—

(I) Annual Ranking of States.—

(II) Absolute Out-of-Wedlock Ratios.—The ratio represented by—

("(2) DEMONSTRATION PROJECT DESCRIBED.—The demonstration project described in this paragraph shall provide that—

(A) the Secretary may make a grant for any demonstration project that has been designed and applied for by a tribal or State agency that demonstrates that a program is feasible and consistent with paragraph (3), the Secretary of Health and Human Services and the Secretary of Agriculture may authorize a county to conduct the demonstration project described in paragraph (2) in accordance with the rules established during the negotiations.

(B) report.—Not later than 6 months after the Secretary makes a demonstration project operated under this subsection, the Secretary of Health and Human Services and the Secretary of Agriculture shall submit to the Congress a report that includes—

(i) a description of the demonstration project;

(ii) the rules negotiated with respect to the project; and

(iii) the innovations (if any) that the county was able to institute under the project.

(C) ELIGIBLE COUNTY.—Any county may participate in a demonstration project under this subsection if the county—

(I) a county that is already administering the welfare program under this part;

(II) an Indian tribe or tribal organization;

(III) a State authorized to operate a demonstration project under this section.

3. COMMENCEMENT OF PROJECT.—After the conclusion of the negotiations described in paragraph (2) in accordance with the rules established during the negotiations.

4. REPORT.—Not later than 6 months after the conclusion of the negotiation to a demonstration project operated under this subsection, the Secretary of Health and Human Services and the Secretary of Agriculture shall submit to the Congress a report that includes—

(i) a description of the demonstration project;

(ii) the rules negotiated with respect to the project; and

(iii) the innovations (if any) that the county was able to institute under the project.

(A) ELIGIBLE COUNTY.—Any county may participate in a demonstration project under this subsection if the county—

(I) generally accepted accounting principles;

(II) estimated Federal funding to under Indian tribes for the tribal administration of the program that the tribe receives under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

(A) IN GENERAL.—Within 90 days after the Governor of a State or tribal organization submits data to the Secretary under section 403 which the State determines is attributable to expenditures by the State or States for the fiscal year in an amount that is equal to the amount determined under paragraph (2).

(B) IN GENERAL.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance grant for the fiscal year in an amount that is equal to the amount determined under paragraph (2).

(C) AMOUNTS FOR INDIAN TRIBES.—

(1) IN GENERAL.—The amount determined under paragraph (2) shall be paid to each Indian tribe that has an approved tribal family assistance plan under this part.

(2) IN GENERAL.—Generally accepted accounting principles.

(D) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish requirements for Indian tribes to participate in the program of the Indian tribe or through agreements, contracts, or compacts with intertribal consortia. States, or other entities for the administration of such program on behalf of the Indian tribe.

(E) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude the development and submission of a single plan by the participating Indian tribes of an intertribal consortium.

(F) APPEAL.—Nothing in this section shall preclude the development and submission of a single plan by the participating Indian tribes of an intertribal consortium.

(G) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under such grant, and penalties against individual for failure to comply with such requirements.

(H) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

(1) generally accepted accounting principles;

(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

(A) IN GENERAL.—The Secretary shall notify the Governors of the States and tribal organizations of the provisions of this section and shall provide such information as may be relevant to making the determination after subparagraph (A) and the Secretary may consider such information before making such determination.

(B) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan—

(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with the purposes of this section;

(B) specifies whether what welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia. States, or other entities;

(C) identifies the population and service area or areas to be served by such plan;

(D) provides that a family receiving assistance under the plan may not receive duplicative assistance under a State or tribal programs funded under this part;

(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe or through agreements, contracts, or compacts with intertribal consortia. States, or other entities for the administration of such program on behalf of the Indian tribe;

(F) applies the fiscal accountability provisions of section 10(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 25, Indian Education Act. 

(2) APPROval.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

(A) IN GENERAL.—Within 60 days after the date a State receives notice of an adverse decision under this section, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services provided for by law.

(B) PROCEDURAL RULES.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision. The Board, in exercising its discretion, shall uphold an adverse decision or any portion thereof, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall conduct a thorough review of the issues and take into account all relevant evidence.
"(1) IN GENERAL.—From the amount appropriated under section 403(g)(1)(A) for a fiscal year, the Secretary shall set aside an amount equal to the Federal medical assistance percentage for such State for fiscal year 1994 to States under section—

(A) 402(g)(1)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section; and

(B) 402(g)(1)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as such section was in effect before October 1, 1995), in the case of a State with respect to which section 109 of this Act applies; and

(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(l) of such Act.

(2) DISTRIBUTION.—From amounts set aside for a fiscal year under paragraph (1), the Secretary shall pay to a State an amount equal to the total amounts of Federal payments for fiscal year 1994 to the State under—

(A) 402(g)(1)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section;

(B) 402(g)(1)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as such section was in effect before October 1, 1995), in the case of a State with respect to which section 109 of this Act applies; and

(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(l) of such Act (as such section was in effect before October 1, 1995).

(3) USE OF FUNDS.—Amounts received by a State under paragraph (2) shall only be used to provide child care assistance under this part.

(4) FEDERAL PAYMENTS.—For purposes of paragraphs (1) and (2), Federal payments for fiscal year 1994 means such payments as reported by the State on February 14, 1995.

(b) IN GENERAL.—The Secretary shall—

(1) IN GENERAL.—There shall be provided a Federal medical assistance percentage for such State for fiscal year 1994 to States under paragraph (1) of such section, for purposes of the preceding sentence, as the Federal medical assistance percentage for such State for fiscal year 1994 as exceed the State set-aside for such State under subsection (a) for such year and the Federal medical assistance percentage for fiscal year 1994 that equal that State's primary Federal share for the programs described in subparagraphs (A), (B), and (C) of subsection (a).

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care services to any child.

SEC. 419. QUALIFIED FUNDING FOR CHILD CARE ASSISTANCE.

Notwithstanding section 635 of the Child Care and Development Block Grant Act of 1990, the State agency specified in section 403(a)(1) shall determine eligibility for child care assistance provided under this part in accordance with criteria determined by the State.

SEC. 420. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 421. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 422. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 423. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 424. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 425. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 426. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 427. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 428. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 429. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 430. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 431. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.

SEC. 432. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS:

(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services of a plan as required by subsection (c) and a request for collection of an overpayment, the Secretary shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care assistance under this Act. Such determination shall be made in accordance with the provisions of section 1108 of this Act.
(a) In General.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study and issue a report setting forth the findings of the study described in subsection (a) of section 505 of the Family Support Act of 1988 (42 U.S.C. 1611 note) and in subsection (b)(3), (4), and (5) of section 605 of the Social Security Act (42 U.S.C. 1315 note) are amended—

(1) in the heading, by striking "Secretary of Health and Human Services" and inserting "Secretary of Health and Human Services and the Attorney General of the United States";

(2) by striking the following: "The report shall include such recommendations as the Secretary considers appropriate.

(b) Report.—Not later than December 31, 1995, the Secretary shall submit a report setting forth the findings of the study described in subsection (a) of section 505 of the Family Support Act of 1988 (42 U.S.C. 1611 note) and in subsection (b)(3), (4), and (5) of section 605 of the Social Security Act (42 U.S.C. 1315 note).

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card and a demonstration of the card's features, such as magnetic stripes, holograms, and integrated circuits. and (c) be developed so as to provide individuals with a permanent record of citizenship or legal resident alien status.

(2) Assistance by Attorney General.—The Attorney General of the United States shall provide such information and assistance as the Secretary deems necessary to achieve the purposes of this section.

(c) Development.—

(1) In General.—The Secretary shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) Elements of Study.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study shall also evaluate the feasibility and cost implications of issuing magnetic stripe cards or electronic cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year period.

(d) Distribution of Report.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Finance of the Senate and the House of Representatives and the Committees on Ways and Means and Judiciary of the House of Representatives within 1 year of the date of the enactment of this Act.

(e) Modifications to the Job Opportunities for Certain Low-income Individuals Program.—Section 505 of the Family Support Act of 1988 (42 U.S.C. 1313 note) is amended—

(f) Use of Funds.—The grants made under subsection (b), in order that school facilities can be more fully utilized, shall be used to provide for, among other things—

(1) extending the length of the school day, expanding the scope of student programs offered before and after existing school hours, enabling parents and others paid from other sources to teach, tutor, coach, organize, advise, or monitor students before and after existing school hours, and providing supplies, uniforms, and tutorial services before and after existing school hours for these programs;

(2) in the school facilities available for community and neighborhood clubs, civic associations and organizations. Boy and Girl Scouts and similar organizations. adult education classes, organized sports, parent education classes, and other educational, recreational, and social activities.

None of the funds provided under this section can be used to supplant funds already provided to a school facility for services, equipment, personnel, or utilities nor can funds be used to pay costs associated with operating school facilities engaged in activities already available for student or community use.

(e) Applications.—

(1) In General.—The Governor of each State shall prepare a demonstration project under this section and shall apply for such grants to the Secretary for the purposes of conducting demonstration projects under this section.

(f) Approval.—The Secretary shall approve applications received from States desiring to conduct demonstration projects under this section. The Secretary shall approve such applications in a number of States to be determined by the Secretary to promote the overall funding levels available under this section.

(g) Duration.—A demonstration project under this section shall be conducted for not more than 4 years plus an additional time period of up to 2 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(h) Evaluation Plan.—

(i) Standards.—Not later than 3 months after the date of enactment of this section, the Secretary shall develop and publish the effectiveness of each demonstration project in contributing toward meeting the objectives set forth in subsection (a), which shall include the requirement that an independent expert entity selected by the Secretary provide a comprehensive evaluation of all demonstration projects, which evaluations shall be included in the appropriate State's annual and final reports to the Secretary under subsection (b)(1).

(j) Submission of Plan.—Each State conducting a demonstration project under this section shall submit an evaluation plan (meeting the standards developed by the Secretary under paragraph (i)) to the Secretary within 90 days after the State is notified of the Secretary's approval for such project. A State shall not receive any Federal funds for the operation of the evaluation plan until the Secretary approves such evaluation plan.

(k) Reports.—

(1) In General.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary and annual and final reports in accordance with the State's evaluation plan set forth in subsection (a)(2) for such demonstration project.

(2) Secretary.—The Secretary shall prepare and submit to the Congress annual reports concerning each demonstration project under this section.
(I) AUTHORIZATIONS.—

(A) GRANTS.—There are authorized to be appropriated for block grants under each of fiscal years 1996, 1997, 1998, 1999, and 2000 $10,000,000.

(B) ADMINISTRATION.—There are authorized to be appropriated to the Secretary for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for each State an amount equal to 5 percent of the amount appropriated under subparagraph (A) for such State under this section.

(2) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, prior to assessing a penalty against a State, notify the State of the violation of law for which such penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this section which outlines how the State will correct any violation of law to which this subsection is assessed and how the State will ensure continued compliance with the requirements of such plan.

(3) DROPPED PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under paragraph (1) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in such paragraph.

(4) FAILURE TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—If a corrective compliance plan is not accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in subsection (a) if the State has not corrected the violation in a timely manner under the plan, some or all of which shall be deemed to be accepted.

SEC. 7209. PARENTAL RESPONSIBILITY CONTRACTS.

(a) ASSESSMENT.—Notwithstanding any other provision of law, the State of which the client is a member shall not therefor be eligible for assistance as determined under this Part.
...
(A) by striking "assistance to families with dependent children" and inserting "assistance under a State plan approved" and inserting "the State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;" and

(iii) by adding at the end the following new subsection:

"(c) Nothing in this Act, a household may not receive benefits under this Act as a result of the household’s eligibility for the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.”

(e) Section 16(g)(4) of such Act (7 U.S.C. 2052(g)(4)) is amended by striking "State plans under Aid Families with Dependent Children Program under" and inserting "State program funded under part A of."

(f) Section 17 of such Act (7 U.S.C. 2026) is amended—

(i) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.”

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(D) by striking paragraph (1) and inserting "the Secretary grants a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995."

(g) Section 20 of such Act (7 U.S.C. 2026) is amended—

(i) in subsection (a)(2)(B) by striking "operating-" and all that follows through "any other" and inserting "operating any": and

(ii) in paragraph (1)—

(A) by striking "(b)(1) A household" and inserting "(b) A household"; and

(B) in subparagraph (B), by striking "training program" and inserting "activity";

(iii) in subparagraph (C) and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(h) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-137; 7 U.S.C. 162 note) is amended by striking the program for aid to families with dependent children and inserting "the State program funded".

(i) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;" and

(iii) by adding at the end the following new subsection:

"(c) Nothing in this Act, a household may not receive benefits under this Act as a result of the household’s eligibility for the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.”

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2301 et seq.) is amended—

(i) in section 313(d)(2)(A)(i)(I) (20 U.S.C. 2341(d)(2)(A)(i)(I)), by striking "the program for aid to dependent children" and inserting "the State program funded";

(ii) in section 232(b)(2)(B) (20 U.S.C. 2344(b)(2)(B)), by striking "the program for aid to dependent children" and inserting "the State program funded";

(ii) in section 231(d)(2)(A)(i)(I) (20 U.S.C. 2344(d)(2)(A)(i)(I)), by striking "the program for aid to dependent children" and inserting "the State program funded"; and

(iii) in section 521(b)(3)(B) (20 U.S.C. 2401(b)(3)(B)), by striking "the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995."

(k) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(l) Section 21 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(m) Section 221 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 162 note) is amended by striking the program for aid to families with dependent children and inserting "the State program funded".

(n) Section 21 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.
program funded under part A of title IV of the Social Security Act, except that where a State rationally reduces its AFDC or State program payments, the Bureau shall receive general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payments.

(1) The Internal Revenue Code of 1986 is amended—

(1) in section 51(d)(9), by striking all that follows through "eligibility for aid or services, and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(2) in section 304(a)(18), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 4103(j)(1)(D)(i), by striking "aid to families with dependent children provided under State program approved" and inserting "a State program funded";

(4) in section 42(a)(1)(A), by striking "(relating to aid to families with dependent children)" and inserting "aid to families with dependent children provided under a State program funded".

(5) in section 1753(b)(3)(C), by striking "aid to families with dependent children" and inserting "amount that may be provided by the State under a State program funded under part A of title IV of the Social Security Act;"

(6) in section 363(a)(1)(A), by striking "(relating to aid to families with dependent children)" and inserting "aid to families with dependent children provided under a State program funded under part A of title IV of the Social Security Act;"

(7) in section 368(b)(1)(C), by striking "aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act;"

(8) in section 121(b)(2) (29 U.S.C. 1510(b)(2)), by striking "(such as the JOBS program)" and inserting "as having continuity for financial assistance under part A of title IV of the Social Security Act and as having continuity for financial assistance under part A of title IV for children); and

(9) in section 204(a)(1), by striking all that follows through "eligibility for assistance, or the amount of such assistance, under a State program funded";

(10) in section 204(b) (29 U.S.C. 1735(b)), by striking "aid to families with dependent children provided under a State program approved" and inserting "aid to families with dependent children provided under a State program funded under part A of title IV of the Social Security Act";

(11) in the second sentence of section 420(o) (29 U.S.C. 1605(o)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C)), by striking "(such as the JOBS program)".

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS program" and inserting "JOBS program;"

(13) in section 501(a) (29 U.S.C. 1791(a)), by striking "aid to families with dependent children under the State program funded under part A of title IV of the Social Security Act";

(14) in section 501(b) (29 U.S.C. 1791b(a)(1)), by striking "aid to families with dependent children under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791i(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded;"

(16) in section 509(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A)), by striking "(A) in clause (v), by striking the semicolon and inserting "; and"; and (B) by striking clause (vi).

(18) in section 303(c)(2)(C)(i) of title 31, United States Code, as amended, to read as follows—

(iv) assistance under a State program funded under part A of title IV of the Social Security Act;"


(1) in section 215(I) (29 U.S.C. 1150(I)), by striking "(A)" and inserting "(B)"; and

(2) by striking subparagraphs (B) and (C).

(f) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in section 255(1) (29 U.S.C. 905(I)), by striking "aid to families with dependent children (73-0412-0-1-609)," and inserting "Block grants to States for temporary assistance for needy families ;" and

(2) in section 256 (29 U.S.C. 906)—

(A) by striking subsection(c); and

(B) by redesignating subsection (d) as subsection (c).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 1101 (29 U.S.C. 1150(I)), by striking "under a State program approved under each place it appears and inserting "assistance under a State program funded under";

(2) in section 224(a) (8 U.S.C. 1255(a)), by striking paragraph (4) and inserting the following—

(4) the portion of title IV of the Social Security Act relating to work activities;"

(5) in section 304(a)(1), by striking "to States for temporarily assistance for needy families" and inserting "State program of assistance for temporary assistance for needy families;" and

(6) by striking paragraph (5) of the Head Start Act (41 U.S.C. 8335(a)(4)(B)(i)), and inserting "program of aid to families with dependent children under a State program approved and inserting "State program of assistance funded;".

(7) in section 9 of the Act of April 19, 1959 (64 Stat. 47, chapter 92: 25 U.S.C. 633) is amended—

(u) in subparagraph (E) of section 513(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 614(d)(8)) is amended to read as follows—

(8) "(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;"

(9) SEC. 7121. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal for such technical and conforming amendments in the law as are required by the provisions of subtitle D of title I of this Act, this subtitle, and subtitles D, E, F, and G of this title.

SEC. 7125. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.

(b) TRANSITION RULE.—

(1) STATE OPTION TO CONTINUE AFDC PROGRAM.—

(A) 9-MONTH EXTENSION.—A State may continue a State program under parts A and F of title IV of the Social Security Act (as added by section 7201) on or after September 30, 1995 (for purposes of this paragraph, the "State AFDC program") until June 30, 1996.

(B) REDUCTION OF FISCAL YEAR 1998 GRANT.—

In the case of any State opting to continue the State AFDC program pursuant to subparagraph (A), the State family assistance grant paid to such State under section 403(a) of the Social Security Act (as added by section 7201) and as in effect on and after October 1, 1995) for fiscal year 1996 (after the termination of the State AFDC program) shall be reduced by an amount equal to the total Federal payment to such State under section 403 of the Social Security Act (as in effect on September 30, 1995) for such fiscal year.

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended;

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions;

(C) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques.

Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs;

(B) authorize State or any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

(c) SUNSET.—The amendment made by section 7201(b) shall be effective only during the 5-year period beginning on October 1, 1995.
Subtitle D—Supplemental Security Income

CHAPTER 1—ELIGIBILITY RESTRICTIONS

SEC. 7251. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS FOR DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) In General.—Section 1611(e)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(i) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled;"

(b) REPRESENTATIVE PAYEE REQUIREMENTS.—Section 1631(a)(1)(A) (42 U.S.C. 1381c(a)(1)(A)) is amended to read as follows:

"(1) In the case of an individual eligible for benefits under this title by reason of disability, if such individual also has an alcoholism or drug addiction condition (as determined by the Commissioner of Social Security), the payment of any such benefits to such individual or eligible spouse shall be deemed to serve the interest of the individual. In any case in which such payment is so deemed under this section of the disability upon which such eligibility is based and that the Commissioner is therefore required to pay the individual's benefits to a representative payee;"

(c) TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION.—

(1) SEC. 1631. (a) in subparagraph (A), by striking 'An individual who is receiving'

(2) CONFORMING AMENDMENT.—Section 1634 (42 U.S.C. 1382c(e)) is amended by inserting after subsection (b) the following new section:

"For purposes of the preceding sentence, any individual identified by the Commissioner as having a substance abuse condition shall receive complete and appropriate treatment as needed.;"

(d) CONFORMING AMENDMENTS.—

(1) Section 1634 (42 U.S.C. 1382c(e)) is amended by striking paragraph (2).

(2) Section 1634 (42 U.S.C. 1382c) is amended by striking subsection (e).


(A) by striking "and" and all that follows through "(A)" the 1st place it appears;

(B) by striking "and" the 3rd place it appears;

(C) by striking paragraph (B);

(D) by striking "either subparagraph (A) or subparagraph (C)" and inserting "the preceding sentence;" and

(E) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence;"

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

(iii) has information that is necessary for the officer to conduct the officer's official duties; and

(B) the location or apprehension of the individual described in subparagraph (A) is not within the appropriate State agency;"

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this sub- section shall consider as priorities, for purposes of expenditure of funds, the activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 7252. DENIAL OF SSI BENEFITS FOR 19 YEAR OLDS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:

"(5) An individual shall not be considered an eligible individual for purposes of this title during the 19-year period beginning on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under part A of title XI of the Social Security Act, or benefits in 2 or more States under the supplemental security income program under title XVI;"
he suffers from any medically determinable physical or mental impairment of comparable severity. (2) APPLICABILITY.—The Commissioner of Social Security shall give such redetermination priority over all continuing eligibility for benefits under this title of each individual whose case is reviewed under this clause, at the option of the Commissioner.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid on or after the date of the enactment of this Act.

SEC. 7282. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO AN INDIVIDUAL WHO IS UNDER 18 YEARS OF AGE.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 7261(a)(10), is amended—

(1) by inserting “and” after the end of clause (i); and

(2) by adding at the end the following new clause:

(iii) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has attained the age of 18 years and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

(b) ELIGIBILITY REDETERMINATIONS REQUIRED FORSSI RECIPIENTS WHO ATTAINED AGE 18.—Section 1614(a)(10) (42 U.S.C. 1382c(a)(10)), as amended by section 7261(a)(10), is amended by adding at the end the following new clause:

(i) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual whose low birth weight is a contributing factor material to the Commissioner’s determination that the individual is disabled.

(ii) A review under this clause shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.

(c) ADDITIONAL ACCOUNTABILITY REQUIREMENTS.—(1) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—(A) CLARIFICATION OF ROLE.—Section 1613(a)(2)(B)(ii) (42 U.S.C. 1383d(a)(2)(B)(ii)) is amended by striking “and” at the end of subclause (IV) and inserting “; and” and adding after subclause (IV) the following new subclause (V):

(V) advise such person through the notice of award of benefits and, at such other times as the Commissioner of Social Security deems appropriate, of any specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(b)(2) (42 U.S.C. 1382c(b)(2)) is amended to read as follows:

(C)(i) In any case where payment is made to a representative payee of an individual or child who is eligible for such benefits by reason of an impairment, the Commissioner of Social Security shall—

(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

(II) implement statistically valid procedures for identifying a sample of such accounts or records in order to identify instances in which such representative payee is not properly using such payment.

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEEs.—Clause (ii) of section 1631(b)(2)(C) (42 U.S.C. 1382c(b)(2)(C)) is amended by striking “Clause (I)” and inserting “Subclauses (II) and (III) of clause (O)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

(4) BURDENS AND COSTS.—(A) IN GENERAL.—The Secretary of the Treasury shall prescribe regulations to carry out the provisions of this section.

(B) LIMITATION.—The Secretary of the Treasury shall exercise his authority under this section in a manner that does not result in an increase in the size or cost of the bearers of Federal taxes.

SEC. 7283. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

CHAPTER 3—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 7271. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI is amended by adding at the end the following new section:

“SEC. 1636. ANNUAL REPORT ON PROGRAM.

(A) DESCRIPTION.—Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including—

(1) CLARIFICATION OF ROLE.—Section 1613(a)(2)(B)(ii) (42 U.S.C. 1383d(a)(2)(B)(ii)) is amended by striking “and” at the end of subclause (IV) and inserting “; and” and adding after subclause (IV) the following new subclause (V):

(V) advise such person through the notice of award of benefits and, at such other times as the Commissioner of Social Security deems appropriate, of any specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.”.

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(b)(2) (42 U.S.C. 1382c(b)(2)) is amended to read as follows:

(C)(i) In any case where payment is made to a representative payee of an individual or child who is eligible for such benefits by reason of an impairment, the Commissioner of Social Security shall—

(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

(II) implement statistically valid procedures for identifying a sample of such accounts or records in order to identify instances in which such representative payee is not properly using such payment.

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEEs.—Clause (ii) of section 1631(b)(2)(C) (42 U.S.C. 1382c(b)(2)(C)) is amended by striking “Clause (I)” and inserting “Subclauses (II) and (III) of clause (O)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

(4) BURDENS AND COSTS.—(A) IN GENERAL.—The Secretary of the Treasury shall prescribe regulations to carry out the provisions of this section.

(B) LIMITATION.—The Secretary of the Treasury shall exercise his authority under this section in a manner that does not result in an increase in the size or cost of the bearers of Federal taxes.”
SECTIONS 7281 TO 7283—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY.

SEC. 7281. ESTABLISHMENT.

There is established a commission which shall be known as the National Commission on the Future of Disability (referred to in this subtitle as the "Commission").

SEC. 7282. DUTIES OF THE COMMISSION.

The Commission shall:

(a) conduct a comprehensive study of all matters related to the nature, purpose, and adequacy of Federal policies and programs as they relate to individuals with disabilities, and shall report on the impact of the amendments made by this title on the operation of the disability programs within the Federal Government;

(b) make recommendations regarding—

(1) the definitions of disability in effect on the date of the enactment of this Act and the advantages and disadvantages of alternative definitions; and

(2) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals who meet the statutory definitions of disability, and whether the Secretary should be authorized to issue regulations regarding such assessments;

(c) make recommendations regarding regulations and, as appropriate, proposals for legislation regarding—

(1) the development of a national strategy for dealing with the disabilities of children;

(2) the definition and implementation of the concept of preventable impairments;

(3) the adequacy of the definition of disability in the Social Security Act, including—

(A) the definitions of disability in effect on the date of the enactment of this Act, and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(4) the feasibility and design of performance criteria to be used in the evaluation of Federal disability programs, and each proposal for a new Federal disability program within the Federal Government;

(d) examine—

(1) what new Federal disability programs (if any) should be established;

(2) the nature of the organization and location of disability programs within the Federal Government;

(3) the compatibility of the organization and location of disability programs with the existing system of Social Security and other programs;

(4) the current status of Federal disability programs, and make recommendations for improving these programs, including—

(A) improving disability reviews and the outcomes of such determinations and reviews;

(B) the data on the utilization of work incentives;

(C) the detailed information on administrative and other program operations;

(D) the summaries of current research undertaken by the Social Security Administration, or by other researchers;

(E) the State supplementation program operations;

(F) the historical summary of resource changes to this title, and

(G) the information to the Commissioners as the Commissioners deem appropriate after consultation with the applicable entity.

SEC. 7283. MEMBERSHIP.

(a) DIRECTOR.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall issue a request for comments in the Federal Register regarding improvements to the disability evaluation and determination procedures for individuals under age 18 to ensure the comprehensive assessment of such individuals, including—

(A) the definitions of disabilities in the Social Security Act, and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(A) the second phase, which may be concurrent with the initial phase, examining the validity, reliability, and consistency with current scientific standards and individual listings in the Listing of Impairments set forth in appendix I of part 404 of title 20, Code of Federal Regulations, or of recommendations made by the Commissioner of Social Security; and

(B) the feasibility and design of performance criteria for each proposal for a new Federal disability program within the Federal Government;

(b) VIEWS OF MEMBERS OF THE SOCIAL SECURITY ADVISORY COUNCIL.—Each member of the Social Security Advisory Council shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this title to be included in the annual report under this section.

(c) STUDY TO CONSIDER IMPROVEMENTS TO THE DISABILITY EVALUATION PROCESS.—The Commissioner of Social Security shall issue a request for comments in the Federal Register regarding improvements to the disability evaluation and determination procedures for individuals under age 18 to ensure the comprehensive assessment of such individuals, including—

(A) the definitions of disabilities in the Social Security Act, and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(C) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(D) the feasibility and design of performance criteria for each proposal for a new Federal disability program within the Federal Government;

SEC. 7284. STUDY BY GENERAL ACCOUNTING OFFICE.

Not later than January 1, 1998, the Comptroller General of the United States shall study and report on the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act.

CHAPTER 4—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

SEC. 7281A. ESTABLISHMENT.

There is established a commission which shall be known as the National Commission on the Future of Disability (referred to in this subtitle as the "Commission"), the expenses of which shall be paid from funds appropriated for the Social Security Administration.

SEC. 7282A. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) conduct a comprehensive study of all matters related to the nature, purpose, and adequacy of Federal policies and programs as they relate to individuals with disabilities, and shall report on the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act.

(b) MATTERS STUDIED.—The Commission shall—

(1) conduct a comprehensive study of all matters related to the nature, purpose, and adequacy of Federal policies and programs as they relate to individuals with disabilities, and shall report on the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act.

(2) make recommendations regarding—

(A) the definitions of disabilities in the Social Security Act, and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(c) REPORTS AND REGULATIONS.—

(1) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(3) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(d) REPORTS AND REGULATIONS.—

(1) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(3) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(4) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(5) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

SEC. 7283A. MEMBERSHIP.

(a) DIRECTOR.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall issue a request for comments in the Federal Register regarding improvements to the disability evaluation and determination procedures for individuals under age 18 to ensure the comprehensive assessment of such individuals, including—

(A) the definitions of disabilities in the Social Security Act, and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(c) REPORTS AND REGULATIONS.—

(1) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(3) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(4) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(5) THE COMMISSION.—The Commission shall, for each proposal for a new Federal disability program within the Federal Government, make recommendations for improvements to the disability determination process, including the appropriate method for performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

SEC. 7284A. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.
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(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule. (c) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Their salaries shall be paid without regard to the provisions of chapter 31 and subchapter III of chapter 33 of such title relating to competitive service Schedule pay rates.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 5145 of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this subtitle.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access to the appropriate Federal agencies.

(g) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning of the Commission.

SEC. 7285. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Chairperson or Vice Chairperson if the Chairperson or Vice Chairperson determines that such hearings or forums are necessary. The Commission shall be able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission under this subtitle.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties under this subtitle. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall provide to the Commission the information to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of money and property from sales of other property received as gifts, bequests, or devises, or proceeds from services, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises must be deposited in the Treasury and shall be available without further disbursement order of the Commission.

(e) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 7286. REPORTS.

(a) ANNUAL REPORT.—Not later than 1 year prior to the date on which the Commission terminates pursuant to section 7287, the Commission shall submit an interim report to the President. The interim report shall contain a detailed statement of the findings, conclusions and recommendations; and (2) an assessment of the extent to which relevant recommendations contained in the interim report under subsection (a) have been implemented.

(b) PROVISIONAL AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make available the report to the public upon request.

SEC. 7287. TERMINATION.

The Commission shall terminate on the date that is 2 years from the date on which the members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle E—Child Support

CHAPTER 1—ELIGIBILITY FOR SERVICES;

DISTRIBUTION OF PAYMENTS

SEC. 7801. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) In the case of a family receiving assistance from the State, the head of the State shall—

(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services are provided under the State program funded under part E of this title, or (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with paragraph (23) that it is against the best interests of the child to do so;

(ii) any other child, if an individual applies for such services with respect to the child; and

(B) enforce any support obligation established with respect to—

(i) a child with respect to whom the State provides services under the plan; or

(ii) the custodial parent of such a child; and

(ii) by striking paragraph (6) and inserting the following new paragraph:

"(6) provide that—

(A) services under the plan shall be made available to nonresidents on the same terms as to residents; and

(B) application and collection fees are imposed and collected and costs in excess of such fees are collected in accordance with section 454C with respect to services under the plan for—

(i) any individual not receiving assistance under any State program funded under part A; or

(ii) any individual receiving such assistance but solely through a program funded under section 418(b).

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (22); and

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that when a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and terms as in the case of individuals to whom services are furnished under this section, except that an application or other request to continue services shall not be required of such a family and certain fees shall be imposed with respect to such family under section 454C.

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "54(8)" and inserting "54(4)(A)(ii')".

(2) Section 452(g)(2)(A)(ii') (42 U.S.C. 652(g)(2)(A)(ii')) is amended by striking "54(6)" each place it appears and inserting "54(4)(A)(ii')".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(8)" and inserting "in an amount to the extent necessary to satisfy any support arrearages that accrued after the family received assistance from the State.".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking paragraph (4) or (8) of section 454" and inserting "section 454(4)."

SEC. 7802. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

(b) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to section 454(8) shall be distributed as follows:

(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State the State shall—

(A) retain, or distribute to the family, the share of the amount so collected; and

(B) pay to the Federal Government the Federal share of the amount so collected.

(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State the State shall—

(A) current support payments.—The State shall, with regard to amounts collected which represent amounts owed for the current month, distribute the amounts so collected.

(B) PAYMENT OF ARREARAGES.—The State shall, with regard to amounts collected which exceed amounts owed for the current month, distribute the amounts so collected as follows:

(i) DISTRIBUTION TO THE FAMILY TO SATISFY ARREARAGES THAT ACCRUED AFTER THE FAMILY RECEIVED ASSISTANCE.—The State shall distribute the amounts so collected to the family to the extent necessary to satisfy any support arrearages that accrued after the family stopped receiving assistance from the State.

(ii) DISTRIBUTION TO THE FAMILY TO SATISFY ARREARAGES THAT ACCRUED BEFORE OR WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of arrearages that accrued before or while the family received assistance from the State the State shall—

(A) pay the Federal Government the Federal share of the amount so collected, to the extent that the amount so collected exceeds the amount of assistance provided to the family by the State.

(B) DISTRIBUTION TO THE FAMILY.—To the extent that neither clause (i) nor clause (ii) applies to the amount so collected, the State shall distribute the amount to the family.

(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of a family receiving assistance from an Indian tribe, from the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(32).

(b) TRANSITION RULE.—Any rights to support obligations which were created to a State as a condition of receiving assistance from the State..."
under part A before the effective date of the Balanced Budget Reconciliation Act of 1995 shall remain assigned after such date.

(3) In subsection (a):—

(1) ASSISTANCE.—The term 'assistance from the State' means—

(a) any support collected by the State under the State program funded under part A or under the State plan approved under part A of this title (as in effect before October 1, 1995); or

(b) any support received under the State plan approved under part E of this title.

(2) FEDERAL SHARE.—The term 'Federal share' means—

(a) the Federal share (as defined in section 457).

(b) In the case of a State for which subparagraph (B) does not apply; and

(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

(a) the Federal medical assistance percentage (as defined in section 2112(c)) in the case of any State for which subparagraph (B) does not apply;

(b) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(4) FEDERAL REIMBURSEMENT PERCENTAGE.—The term 'Federal reimbursement percentage' means—

(a) the total amount paid to the State under section 493 for the fiscal year divided by

(b) the total amount expended by the State to carry out the State program under part A during the fiscal year.

(5) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

(b) CONFORMING AMENDMENTS.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking 'section 467(4) or (4)(uj)'' and inserting 'section 457''.

(c) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654), as amended by section 7301(b), is amended—

(1) by striking 'and' at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting a semicolon;

(3) by adding after paragraph (25) the following new paragraph:

(26) will have in effect safeguards, applicable to all components of the system, that are designed to protect the privacy rights of the parties, including—

(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to enforce support;

(B) prohibitions against the release of information on the whereabouts of a party to another party against whom a protective order with respect to the former party has been entered; and

(C) prohibitions against the release of information on the whereabouts of a party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.

(5) by striking paragraph (2) of section 7302(b), and the State plan approved under this part, on and after the date on which the State plan approved under this part, on and after the effective date of the Balanced Budget Reconciliation Act of 1995 shall remain assigned after such date.

(9) by striking the period at the end of paragraph (1) and inserting a comma.

(b) In the case of a State for which subparagraph (B) does not apply; and

(10) by striking 'and' at the end of paragraph (1) and inserting a semicolon.

(c) CLERICAL AMENDMENTS.—The amendments made by subsection (b) shall become effective on October 1, 1995.

SEC. 703. RIGHTS TO NOTIFICATION AND HEARINGS.

SEC. 704. REIMBURSEMENT OF EXPENSES.

SEC. 705. RECORDS.

SEC. 706. ASSIGNMENT OF SUPPORT.

SEC. 707. EXEMPTIONS.

SEC. 708. EXCEPTIONS.

SEC. 709. REPORTS.

SEC. 710. AUDITS.

SEC. 711. STATE CASE REGISTRY.

SEC. 712. LINKING OF LOCAL REGISTRIES.

SEC. 713. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

SEC. 714. INFORMATION COMPARES AND OTHER DISCLOSURES OF INFORMATION.

SEC. 715. TEMPORARY FAMILY ASSISTANCE AND MEDICAID AGENCIES.

SEC. 716. INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.
(I) by striking "and" at the end of paragraph (25); and

(2) by adding after paragraph (26) the following new paragraph:

"(A) by striking 'and' at the end of paragraph (1) with respect to the employer to whom the social security number is assigned, and the name and identifying number of an individual required to provide support under a support order, the State Directory of New Hires shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

(2) DEFINITIONS.—As used in this section:

(A) EMPLOYER.—The term 'employee'—

(1) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(2) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to this section with respect to such employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(B) EMPLOYER.—The term 'employer' includes—

(1) any governmental entity, and

(2) any labor organization.

(3) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act (29 U.S.C. 152(5), commonly known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(1)(A) of such Act of an agreement between the organization and the employer.

(4) REPORTING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each employer shall furnish to the Secretary of Labor the information described in paragraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

(B) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date on which a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing
the employee’s child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation of the employee, unless the employee waives such a project to withholding pursuant to section 466(b)(3). (2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRERS.— (A) IN GENERAL.—Within 2 business days after the date the information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall transmit information to the National Directory of New Hires. (B) WAGE AND UNEMPLOYMENT COMPENSATION. — (1) The wage and unemployment compensation programs shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations. (2) BUSINESS DAY DEFINED.—As used in this subsection of the business day means a day on which State offices are open for regular business. (3) OTHER USES OF NEW HIRE INFORMATION.— (1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (a)(1) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations. (2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program. (3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS’ COMPENSATION.—State agencies operating employment security and workers’ compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering unemployment benefits and workers’ compensation benefits. (4) QUARTERLY WAGE REPORTING.—Section 1137(b)(3)(A) (42 U.S.C. 653(b)(3)) is amended— (1) by inserting “in addition to” before “is” and deleting “or” after “the”; and (2) by inserting “and” after “report”. (5) ELIGIBILITY OF THE INCOME AND INTEREST.—Section 303(a)(6)(A) is amended— (1) by striking “as made to the Secretary” and inserting “as maintained pursuant to section 454A, as furnished by the Secretary” and (2) by striking “in” and inserting “of” after “subsection (c)”. (6) INCOME SUPPORT OBLIGATIONS.—Section 454A(2)(C) is amended— (1) by striking “in” and inserting “of” after “subsection (b)”; and (2) by adding “(2)”. (7) LOTTERY WINNINGS.—Section 303(a)(6)(B) is amended— (1) by adding “lottery winnings” after “for” and (2) by striking “lottery winnings” after “just as”. (8) OTHER USES OF NEW HIRE INFORMATION.— (1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (a)(1) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations. 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(including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individual or entity, as determined pursuant to paragraph (2). (b) The Secretary shall prescribe standards to ensure that the confidentiality of any information described in this subsection is maintained.

2. Subject to subparagraph (A), the Secretary shall ensure that the State or Federal agency that previously supplied information to the Secretary pursuant to subparagraph (A) shall—

(a) establish and implement safeguards with respect to the entities established under this section designed to—

(i) ensure the accuracy and completeness of information in the Federal Parent Locator Service, and

(ii) restrict access to confidential information contained in the Federal Parent Locator Service to authorized persons.

(b) Each department, agency, and instrumentality of the United States shall, as appropriate, and within a reasonable time after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

3. To the extent and with the frequency that the Secretary determines to be necessary for accurate compliance with the requirements of this section, the Secretary may, by rule, prescribe standards for the collection and maintenance of such information as the Secretary determines to be necessary to ensure that such information is collected and maintained accurately.

4. The Secretary shall provide the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(1). (d) The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 3506 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3307 of such Code, and verifying a claim with respect to employment in a reasonable manner.

(2) The Secretary shall maintain within the National Directory of New Hires a list of matched cases for purposes of matching newly hired employees pursuant to section 453A(g)(2), and the State which each such employer has designated to receive such information.

(3) The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration in a form and manner necessary for verification in accordance with subparagraph (B).

(B) The Social Security Administration shall verify the data on the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

(i) The name, Social Security number, and birth date of each such individual.

(ii) The employer identification number of each such employer.

(3) For the purpose of locating individuals in a paternity establishment case or a case involving the collection of child support, the Secretary shall—

(a) compare information in the National Directory of New Hires with support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

(b) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

(4) To the extent and with the frequency that the Secretary determines to be necessary for accurate compliance with the requirements of this section, the Secretary shall—

(a) compare the information in each component of the National Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

(b) disclose information in such registry to assist State agencies in determining whether a new hire's wages should be subject to withholding for purposes of section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifying information.

(5) The Secretary shall reimburse the Commissioner of Social Security, at a rate to be established by the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in this subsection.

(6) The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(2), at rates which the Secretary determines to be reasonable and will not include the cost of obtaining, compiling, or maintaining such information.

(7) A State that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

(8) In the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

(9) The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

(i) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

(ii) restrict access to confidential information contained in the Federal Parent Locator Service to authorized persons.

(10) Each department, agency, and instrumentality of the United States shall, as appropriate, and within a reasonable basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that no report shall be filed with respect to an employee of a department, agency, or instrumentality if the Secretary determines that the keeping of such records would not be in the public interest.

(11) The Federal Parent Locator Service shall notify such State agency that further payment will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no further certification to the Secretary of the Treasury with respect to the State.

(2) For purposes of this subsection—

(A) the term 'wage information' means information regarding wages paid to an individual, the time and place of their payment, the amount of such compensation being received (or to be received by such individual), and the individual's current (or most recent) address, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for unemployment compensation, the amount of unemployment compensation, the amount of earnings will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no further certification to the Secretary of the Treasury with respect to the State.

3. To make the wage information and claim information available to the State agencies charged with the administration of the Social Security Act, the Social Security Administration shall provide the wage and claim information contained in the records of such agency.

(2) The wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing, determines to the satisfaction of the Secretary of Labor that the wage information and claim information contained in the records of such agency is necessary for purposes of the Social Security Act, the Social Security Administration shall provide such wage and claim information contained in the records of such agency.

(4) The Secretary of Labor or the Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 3506 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3307 of such Code, and verifying a claim with respect to employment in a reasonable manner.
each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having adminis-
trative responsibility for the law involved, the social security number of each party to the decree, order, determination, or acknowledgment in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

### CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 7321. ADOPTION OF UNIFORM STATE LAWS.

Section 454(a)(2)(A) of the Social Security Act is amended by adding at the end the following new subparagraph:

(1) in order to satisfy section 454(a)(2)(A) on or after January 1, 1997, each State must have in effect the Uniform Interstate Family Support Act as approved by the National Conference of Commissioners on Uniform State Laws in August 1992 (with the modifications and additions specified in this subsection), and the procedures required to implement such Act.

(2) The State law enacted pursuant to paragraph (1) may be applied to any case involving an order which is established or modified in a State and which is sought to be modified or enforced in another State.

(3) The State law enacted pursuant to paragraph (1) of this subsection shall contain the following provision in lieu of section 61(a)(1) of the Uniform Interstate Family Support Act:

(1) the following paragraph:

(II) the child, the individual obligee, and the obligor;

(II) do not reside in the issuing State; and

(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

(II) in any case where another State is exer-
cising or seeks to exercise jurisdiction to modify the order, the conditions of section 201 are met to the same extent as required for proceeding to establish orders or:

(4) The State law enacted pursuant to paragraph (1) shall provide that, in any proceeding subject to the law, process may be served (and

SEC. 7322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT OR- DERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (b) and inserting "subsections (e), (f), and (I);

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

(II) means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child was born with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (d)(1), by inserting "and subsections (e)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contest-

ant"; and

(B) by striking "section (e) and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a none of the of due support order with re-

spect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (f)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contest-

ant";

(B) by striking "to that that effect making the modification and assuming" and inserting "State with the continuing, exclusive jurisdiction for the other State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the fol-

lowing new subsection:

(1) RECOGNITION OF CHILD SUPPORT OR-

DERS.—If 1 or more child support orders have been issued in this or another State with respect to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(1) if only 1 court has issued a child support order, the order of that court must be recog-

nized;

(2) if 2 or more courts have issued child sup-

port orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

(3) if 2 or more courts have issued child sup-

port orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized;

(4) if 2 or more courts have issued child sup-

port orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

(5) the court that has issued an order recog-

nized under this subsection is the court having continuing, exclusive jurisdiction:

(11) in subsection (a) (as so redesignated)—

(A) by striking "PROV" a converting "MODI-

FIED"; and

(B) by striking "subsection (e) and inserting "subsections (e) and (f)";

(12) in subsection (b) (as so redesignated)—

(A) in paragraph (2), by inserting "including the "duration of support proceedings and other ob-

ligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

(1) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child resis-

ting in the proceeding, the enforcement agency seeking to modify, or to modi-

fy and enforce, a child support order issued in any other State shall notify the court in that State with jurisdiction over the nonmovant for the purpose of modification.

SEC. 7323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315 and 7317(a), is amended by adding at the end the following new paragraph:

(a) Procedures under which a State shall conduct within 5 busi-

ness days to a request made by another State to enforce a support order: and

(b) the term "business day" means a day on which State offices are open for regular busi-

ness;

(6) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

(1) shall include such information as will en-

able the State to which the request is transmit-

ted to compare the information about the case to the information in the data bases of the State;

(2) shall constitute a certification by the re-

questing State—

(I) of the amount of support under the order the State is entitled to enforce; and

(II) that the requesting State has compiled with all procedural due process requirements applicable to the case;

(3) if the State provides assistance to an-

other State pursuant to this paragraph with re-

spect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

(4) the State shall maintain records of—

(a) the number of such requests for assistance received by the State;

(b) the number of cases for which the State collected support in response to such a request;

(c) the number of cases for which the State provided assistance; and

(d) the number of requests for assistance that were not answered.

SEC. 7324. USE OF FORMS IN INTERSTATE EN.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9),

(2) by striking the period at the end of para-

graph (10) and inserting ";" and,

(3) by adding at the end the following new para-

graph:

(11) not later than 60 days after the date of the enactment of the Balanced Budget Reconcili-

ation Act of 1995, establish a technical advisory commit-

tee, which shall include State directors of pro-

grams under this part, and not later than June 30, 1996, after consulting with such committee, promulgate forms to be used by States in interstate cases for—

(1) collection of child support through in-

come withholding;

(2) imposition of liens; and

(3) administrative subpoenas.

(b) USE BY STATES.—Section 454(b) (42 U.S.C. 654(b)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by inserting ";" and ";" at the end of the following subparagraph:

(10) no later than October 1, 1995, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;

SEC. 7325. STATE LAWS PROVIDING EXPEDITED PROCEEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 7315, is amended—

(1) in subsection (a)(2), by striking the 1st sen-

tence and inserting the following:

"Expedit-
The procedures specified in this subsection are the following:

(i) Procedures which give the State agency the ability to effect the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order of a court, administrative tribunal, or local jurisdiction, and to recognize and enforce the authority of State agencies of other States to take the following actions:

(a) Procedures under which—

(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing address, telephone number, driver's license number, and the name and telephone number of employer; and

(ii) in any subsequent child support enforcement action, which is supported by sufficient evidence showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and opportunity to appear with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

(b) Procedures under which—

(I) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exercises statewide jurisdiction over the parties, and

(ii) in all orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

(c) Procedures for a simple civil process.

(II) pursuant to an order issued in a judicial or administrative proceeding.

(III) if the father and mother have signed an affidavit as provided in subsection (a)(2), the father may deem State due process requirements for notice and opportunity to appear with respect to the party, upon delivery of written notice to any recent residential or employer address filed with the tribunal pursuant to clause (i).

(IV) automatic procedures for a simple civil process.

(V) upon sufficient notice to the party, to develop and use an affidavit for the voluntary acknowledgment of paternity which includes—

(a) the name of the party; and

(b) a statement of the alternatives to the legal consequences of the refusal to cooperate; or

(c) the information required for the filer to verify the accuracy of the information submitted.

(VI) an order requiring the party, upon sufficient notice to the party, to develop and use an affidavit for the voluntary acknowledgment of paternity.

(VII) upon sufficient notice to the party, to develop and use an affidavit for the voluntary acknowledgment of paternity.

(VIII) in a case in which the party is a minor, any rights afforded by the minor status and responsibilities that arise from the nonexistence of sexual contact between the parties.

(iii) Procedures which require the State agency to obtain an admission of paternity in a case in which the agency orders genetic testing—

(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the party; or

(ii) to obtain additional testing in any case where an original test result is contested, upon request and advance payment by the contestant.

(iv) Procedures for a simple civil process for effecting the voluntary acknowledgment of paternity which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if I parent is a minor, any rights afforded by the minor status) and responsibilities that arise from, signing the acknowledgment.

(v) Procedures which must include a hospital-based program for the voluntary establishment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause and other exceptions as may be necessary to bring the child into account the best interests of the child.

(vi) Such procedures must require the State agency responsible for maintaining birth record services to offer voluntary paternity establishment services.

(II) (a) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

(b) The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

(III) (a) If the State agency determines that it is infeasible, to implement the expedited administrative procedures required by section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

(b) Procedures under which the name of the father shall be included on the record of birth of the child only—

(I) if the father and mother have signed a voluntary acknowledgment of paternity; or

(ii) pursuant to an order issued in a judicial or administrative proceeding.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit an proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

(iii) Procedures under which—

(I) a voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any party to rescind the acknowledgment within 60 days.

(II) after the 60-day period referred to in clause (I), a signed voluntary acknowledgment of paternity shall not be valid on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon
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(III) judicial or administrative proceedings

ar not required or permitted to ratify an Uncl7alknged acknowledgment of paternity.

Section 454 (42 U.S. C. 654). as amended by sections 7301(b), 7304(a), 7312(a). and 7313(a). is
amended—
(1) by striking 'and at the end of paragraph
(27);
(2)

striking the period at the end of para(E) Procedures under which judicial or 9d- graph by
(28) and inserting '; and'; and
mJnistrative proceedings are not required or per(3) by inserting after paragraph (28) the folin tted to ratify an unchallenged acknowledg- lowing new paragraph:
in nt of paternity.
'(29) provide that the State agency respon(F) Procedures—
sible for administenng the State plan—
(i) requinng the admission into evidence, for
"(A) shall make the determination (and redepurposes of establishing paternity, of the results termination at appropnate intervals) as to
oiany genetic test that is—
whether an individual who has applied for or is
(I) of a type generally acknowledged as reli- receiving assistance under the State program
ale by accreditation bodies designated by the funded under part A or the State program under
Scretaiy: and
title XXI is cooperating in good faith with the
(II) performed by a laboratory approved by
State in establishing the paternity o. or in establishing, modifying, or enforcing a support
such an accreditation body;
'(ii) requiring an objection to genetic testing order for, any child of the individual by provid-

rsults to be made in writing not later than a

s,ecified number of days before any hearing at
which the results may be introduced into evicence (or, at State option, not later than a speci/led number of days after receipt of the results);
nd
'(iii) making the test results admissible as evidence of paternity without the need for founda'ion testimony or other proof of authenticity or
accuracy, unless objection is made.
'(C) Procedures which create a rebuttable or,

ing the State agency with the name of; and such

other information as the State agency may require with respect to. the noncustodial parent of
the child, subject to such good cause and other
exceptions as the State shall establish and taking into account the best interests of the child;
'(B) shall require the individual to supply additional necessary information and appear at
interviews, hearings, and legal proceedings;

'(C) shall require the individual and the child
to submit to genetic tests pursuant to judicial or
administrative order; and
'(D) shall promptly notify the individual and
the State agency administering the State program funded underpart A and the State agency
administering the State program under title XXI
of each such determination, and if
noncooperation is determined, the basis there-

at the option of the State, conclusive presrimpion of paternity upon genetic testing results iniicating a threshold probability that the alleged
Father is the father of the child.
'(H) Procedures requiring a default order to
'e entered in a paternity case upon a showing
7f service of process on the defendant and any fore.
9dditional showing required by State law.
CHAPTER 5—PROGPIMADMINISTIZ4TJON
'02 Procedures providing that the partks to
AND FUNDING
an action to establish paternity are not entided

October 30, 1995

(iv) In cases receiving services under the

State plan approved under this part, the

amount of child support collected compared to
the amount of outstanding child support owed.
(v) The cost-effectiveness of the State pro-

gram;

(B) shall take into consideration—
(i) the impact that incentives can have on reducing the need to provide public assistance and

on permanently removing families from public
assistance;

'(ii) the need to balance accuracy and fairness with simplicity of understanding and data
gathering;
'(iii) the need to reward performance which

improves short- and long-term program Outcomes. especially establishing paternity and
support orders and encouraging the timely payment of support;

'(iv) the Statewide paternity establishment

pelcentage;

fr) baseline data on current performance
and projected costs of performance increases to

assure that top performing States can actually
achieve the top incentive levels with a reasonable resource investment;

'(vi) performance outcomes which would warrant an increase in the total incentive payments
made to the States,' and

'(vii) the use or distribution of any portion of
the total incentive payments in excess of the
total of the payments which may be distributed
under subsection (c),

'(C) shall be determined so as to distribute to
the States total incentive payments equal to the
total incentive payments for all States in fiscal
year 1994, plus a portion of any increase in the
reimbursement to the Federal Government under
section 457 fmm fiscal year 1999 or any other increase based on other performance outcomes approved by the Secretary under this subsection:

"(D) shall use a definition of the tenn State'
which does not include any area within thejurisdiction of an Indian tribal government; and
SEC. 7341. PERFORMANCE-BASED INCENTIVES
"(E) shall use a definition of the term Stateto a trial byjury.
AND PENAL TIES.
wide paternity establishment percentage' to
(f) Procedures which require that a tem(a) INCENTIVE PA YMEI'JTS. —
mean with respect to a State and a fiscal year—
polar)' order be issued, upon motion by a party,
(1) IN GENERAL. —Section 458 (42 U. S. C, 658) is
(i) the total number of children in the State
requlnng the provision of child support pending amended—
who were born out of wedlock, who have not atan administrative or judicial determination of
(A) in subsection (a), by stnking 'aid to famiparentage, where there is clear and convincing lies" and all through the end period. and insert- tained 1 year of age and for whom paternity is
established or acknowledged during the fiscal
evidence of paternity (on the basis of genetic ing 'assistance under a program funded under year:
divided by
tests or other evidence).
part A, and regardless of the economic cir'(ii) the total number of children born out of
'(K) Procedures under which bills for preg- cumstances of their parents. the Secretary shall,
wedlock in the State during the fiscal year.
nancy, childbirth, and genetic testing are ad- from the support collected which would other'(c) The total amount of the incentives paymissible as evidence without requiring third- wise represent the reimbursement to the Federal ment made by the Secretary to a State in a fiscal
party foundation testimony, and shall con- government under section 457. pay to each State year shall not exceed 90 percent of the total
stitute prima facie evidence of amounts incurred for each fiscal year. on a quarterly basis (as de- amounts expended by such State during such
for such services or for testing on behalf of the scribed in subsection (e)) beginning with the year for the operation of the plan approved
child.
quarter commencing October 1, 1999. an incen- under section 454, less payments to the State
'(L) Procedures ensuring that the putative fa- tive payment in an amount determined under pursuant to section 455 for such year.
ther has a reasonable opportunity to initiate a subsections (b) and (c).
(2) in subsection (d), by striking ', and any
paternity action.
(B) by striking subsections (b)and (c) and in- amounts" through 'shall be excluded'.
serting
the
following
'(M) Procedures under which voluntary ac(b) PA YMENTS TO POLITICAL SuBDIVISIONS. —
''b)(l) Not later than 60 days after the date of Section 454(22) (42 U.S.C. 654 (22)) is amended by
knowledgments and adjudications of paternity
byjtdicial or administrative processes are fIled the enactment of the Balanced Budget Rec- inserting before the semicolon the following:
with the State registry of birth records for com- onciliation Act of 1995, the Secretary shall es- but a political subdivision shall not be entitled
parison with information in the State case reg- tablish a committee which shall include State di- to receive, and the State may retain, any
istly,
rectors of programs under this part and which amount in excess of the amount the political
(b) NATIONAL PATERNITY ACKNOWLEDGMENT shall develop for the Secretary's appmval a forsubdivision expends on the State program under
AFFIDA Vii', —Section
452(a) (7)
this part. less the amount equal to the percent(42
U.S. C. mula for the distribution of incentive payments
652(a)(7)) is amended by inserting ". and de- to the States.
age of that expenditure paid by the Secretary
(2)
The
formula
developed
and
approved
under section 455".
velop an affidavit to be used for the voluntary
(c) CALCUL4TION OF IV-D PATERNrrY Es TABacknowledgment of paternity which shall in- under paragraph (1)—
"(A)
shall
result
in
a
percentage
of
the
collecLISHMENT PERCENTAGE.—
clud the social security number of each parent
tions
described
in
subsection
(a)
being
distrib(1) Section 452(g)(l) (42 U.S.C. 652(g)(l)) is
before the semicolon.
(c) TECHNICAL AMENDMENT. —Section 468 (42

U.S.C. 668) is amended by striking "a simple

civil process for voluntarily acknowledging patern ity and".
SEC.

7332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT,

uted to each State based on the States comparative performance in the following areas and any

amended—
(A) in the matter preceding subparagraph (A)

other areas approved by the Secretary under

by inserting 'its overall performance in child

this subsection:

support enforcement is satisfactory (as defined

(i) The IV-D paternity establishment
centage, as defined in section 452(g) (2).

per-

in section 458(b) and regulations of the Sec-

retary), and' after '1994. ",' and
'(ii) The percentage of cases with a support
(B) in each of subparagraphs (A) and (B), by
Section 454(23) (42 U.S.C. 654(23)) is mended order with respect to which services are being striking "75" and inserting "90".
by inserting and will publicize the availability provided under the State plan approved under
(2) Section 452(g)(2)(A) (42 U.S.C. 652 (g) (2) (A))
and encourage the use of procedures for vol- this part.
is amended in the matter preceding clause (i)—
untary establishment of paternity and child
(iii) The percentage of cases with a support
(A) by striking 'paternity establishment persupport by means the State deems appropriate
order in which child support is paid with respect centage" and inserting "IV-D paternity estabbefore the semicolon,

to which services are being so provided.

lishment percentageS '.' and


(B) by striking "(for all States, as the case may be)");
(2) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—
(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.
(B) by redesignating subparagraph (A) as so redesignated, by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children born out of wedlock for whom support has not been established"; and
(C) in subparagraph (B) (as so redesignated)—
(i) by striking paragraphs (16) and (17) and inserting subparagraphs (B) and (C) as subparts (A) and (B) respectively;
(ii) by striking "and (B)" in subparagraph (A) (as so redesignated).
(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended by inserting after subparagraph (B) the following new subparagraph (C):
"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—
"(I) by striking "(i)" and inserting "(i)";
"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and
"(III) whether such functions as the Secretary may find necessary to carry out the purposes of sections 452(g) and 458.
(4) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—
(a) in paragraph (4)(A)—
(1) by striking "and inserting "so as": and
(2) by adding after paragraph (4) the following new paragraph:
"(5) PENALTIES—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential program data are imposed for applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986) and are adequately trained in security procedures.
(b) in paragraph (5) (42 U.S.C. 652(g)(5)), as amended by sections 4541(a)(2) and 4541(a)(3), is amended to read as follows:
"(5) PENALTIES—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential program data are imposed for applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986) and are adequately trained in security procedures.
(c) (coalition with the appropriate Federal agency administering the program under part) and inserting "coalition with the appropriate Federal agency administering the program under part.
(5) TRAINING AND INFORMATION—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.
(6) The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act (42 U.S.C. 654A), effective 2 years after the date of the enactment of this Act.
(7) IMPLEMENTATION TIMETABLE—Section 454A (42 U.S.C. 654A) is amended by inserting after section 454A the following new section:
SEC. 454A. AUTOMATED DATA PROCESSING.
"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency shall—
"(1) use the automated system—
"(A) to maintain the required data on support performance with respect to paternity establishment, including child support enforcement in the State; and
"(B) to calculate the IV-D paternity establishment percentage and child support enforcement for the State for each fiscal year;
and
"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B)
"(B) IN GENERAL.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulation) —
"(1) POLICIES RESTRICTING ACCESS—Written policies concerning access to data by State agency personnel, and sharing of data with other persons which—
"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part;
"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.
"(2) SYSTEMS CONTROLS—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).
"(c) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms to guard against and promptly identify unauthorized access or use.
(8) "(4) TRAINING AND INFORMATION—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.
(9) THE SECRETARY OF HEALTH AND HUMAN SERVICES Shall prescribe final regulations for implementation of section 454A of the Social Security Act (42 U.S.C. 654A), effective 2 years after the date of the enactment of this Act.
(10) IMPLEMENTATION TIMETABLE—Section 454A (42 U.S.C. 654A) is amended by inserting after section 454A the following new section:
(11) (A) in paragraph (1)(A)—
(12) (B) in paragraph (1)(B)—
(13) (c) in paragraph (1)(B) and inserting "and inserting the percent specified in paragraph (3)");
(14) (d) by striking "and" and inserting "which the Secretary"; and
(B) by adding at the end the following new paragraph:

"(1) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary, in consultation with the State, determines to be necessary and appropriate for purposes of assistance concerning the requirements specified in section 454(16) (as in effect on the day before the date of the enactment of the Balanced Budget Reconciliation Act of 1995), but limited to an amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

(2) The Secretary shall pay to each State, for each quarter in fiscal years 1987 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

(iii) The percentage specified in this clause is the greater of—

(A) 80 percent; or

(B) the percentage otherwise applicable to the fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of most relevant data available, as determined by the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary in operating the Federal Parent Locator Service under this section. to the extent such costs are not recovered through user fees."

SEC. 7346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS. —

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part: and inserting "this part, including: and"

(B) by adding at the end the following new clauses:

(1) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

(2) the total amount paid to the Federal Government under section 455(a)(1) of the Social Security Act for fiscal years 1996, 1997, 1998, and 2000;

(3) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.

(A) IN GENERAL. —The Secretary of Health and Human Services may not pay more than 50 percent of the costs of program activities under section 455(a)(1) of the Social Security Act for fiscal years 1996, 1997, 1998, and 2000 in any fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of most relevant data available, as determined by the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary in operating the Federal Parent Locator Service under this section. to the extent such costs are not recovered through user fees.

SEC. 7351. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT. —There hereby established a commission to be known as the National Child Support Guidelines Commission (in this section referred to as the "Commission").

(b) GENERAL DUTIES. —

(1) IN GENERAL. —The Commission shall determine—

(A) whether it is appropriate to develop a national child support guideline for consideration by the Congress or for adoption by individual States; or

(B) based on a study of various guideline models, the benefits and deficiencies of such models and any needed improvements.

(2) DEVELOPMENT OF MODELS. —If the Commission determines under paragraph (1)(A) that a national child support guideline is appropriate, the Commission shall develop such national guideline or improvements.

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION. —In making the recommendations concerning guidelines required under subsection (b), the Commission shall consider—

(1) the adequacy of State child support guidelines established pursuant to section 467;

(2) how such guidelines are generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) the criteria and methods for defining income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments: appropriate treatment of expenses for children of noncustodial parents, and cases for which one or both parents have financial obligations to more than one family, including the effect (if any) to be given to—

(i) the income of either parent’s spouse; and

(ii) the financial responsibilities of either parent for other children or stepchildren;

(3) the appropriate treatment of expenses for child care (including costs resulting from the absence of one or both parents, including—

(A) support (including shared support) for postsecondary or vocational education or support for children who are disabled and support for disabled adult children;

(B) procedures to automatically adjust child support orders periodically to address changes in circumstances, including any changes in the Consumer Price Index or either parent’s income and expenses in particular cases;

(C) procedures to help noncustodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such visitation and custody orders are resolved; and

(4) the appropriate duration of support by one or both parents, including—

(A) procedures for adjusting support periodically to account for changes in living expenses of the noncustodial parent;

(B) procedures to automatically adjust child support orders periodically to address changes in circumstances, including any changes in the Consumer Price Index or either parent’s income and expenses in particular cases;

(C) procedures to help noncustodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such visitation and custody orders are resolved; and

(5) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights;

(d) MEMBERSHIP. —

(1) NUMBER. —The Commission shall be composed of 12 individuals appointed not later than January 15, 1997, of which—

(A) 3 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(B) 3 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(C) 6 shall be appointed by the Secretary of Health and Human Services.

(e) QUALIFICATIONS. —Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, at least 1 member shall have experience in the evaluation and development of child support guidelines, and at least 1 member shall have experience in the evaluation and development of child support guidelines.

(f) TERM. —Members of the Commission shall serve terms generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) the criteria and methods for defining income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments: appropriate treatment of expenses for child care (including costs resulting from the absence of one or both parents, including—

(i) the income of either parent’s spouse; and

(ii) the financial responsibilities of either parent for other children or stepchildren;

(3) the appropriate treatment of expenses for child care (including costs resulting from the absence of one or both parents, including—

(A) support (including shared support) for postsecondary or vocational education or support for children who are disabled and support for disabled adult children;

(B) procedures to automatically adjust child support orders periodically to address changes in circumstances, including any changes in the Consumer Price Index or either parent’s income and expenses in particular cases;

(C) procedures to help noncustodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such visitation and custody orders are resolved; and

(5) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights;

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groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS. COMPENSATION. ACCESS TO INFORMATION, AND SUPERVISION.—The 1st sentence of subparagraph (C), the 1st and 3rd subparagraphs of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1807(c) of the Social Security Act are hereby applied to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(f) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 7352. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 666(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

(A) The State shall review and, if appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

(B) The State may elect to review and, if appropriate, adjust an order pursuant to subparagraph (A) by—

(i) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded based on the guidelines.

(ii) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjust the order in accordance with the child support guidelines established pursuant to section 467(a).

(iii) Any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.

(C) The State may use automated methods (including automated comparisons with wage or income records) to identify orders subject to such an order informing them of the right to request the State to review and, if appropriate, adjust the order pursuant to clause (i). The notice may be included in the order."

SEC. 7353. FURINISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO STATE CHILD SUPPORT ENFORCEMENT ACT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(B) the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);"

"(C) the person has provided at least 10 days prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and"

"(D) the consumer report will be kept con- fidential, used only for the purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(2) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support order.

SEC. 7354. NONLIABILITY FOR DEPOSITORY INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) In general.—Notwithstanding any other provision of Federal or State law, a depository institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual if the State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) Prohibition of Disclosure of Financial Record Obtained by State Child Support Enforcement Agency.—A State child support enforcement agency shall not disclose a financial record obtained from a financial institution pursuant to subsection (a) if the financial record is not a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) Damages for Unauthorized Disclosure.—

(1) Disclosure by State Officer or Employee.—If any person knowingly or by reason of negligence discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

(2) No LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure made in good faith no matter which results from a good faith, but erroneous, interpretation of subsection (b).

(3) Damages brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record and a financial record of an individual; or

(ii) the sum of

(B) the act or acts damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(C) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

(D) the costs (including attorney's fees) of the action.

(e) Definitions.—For purposes of this section—

(1) the term 'depository institution' means—

(A) a depository institution, as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution affiliated-party, as defined in section 3(u) of such Act (12 U.S.C. 1813(l)); and

(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution affiliated-party as a credit union, as defined in section 206(c) of such Act (12 U.S.C. 1756(c));

(2) the term 'financial record' has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3606).

(3) the term 'State child support enforcement agency' means a State agency which administers a State program for establishing and enforcing child support obligations.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 7381. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) Amendment.—The Internal Revenue Code—

(1) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services;" and

(2) by striking "and inserting ";" and

(3) by adding at the end the following new paragraph:

"(d) no additional fee may be assessed for adjustment to an amended or certified order pursuant to such section 652(b) with respect to the same obligor;", and

(b) Effective Date.—The amendments made by this section shall become effective October 1, 1997.

SEC. 7382. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITY.—Section 459 (42 U.S.C. 659) is amended by striking "Secretary of Health, Education, and Welfare" and inserting "Secretary of Health and Human Services.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 7383. CONSENT TO THE UNITED STATES TO INCOME WITHHOLDING. GARNISHMENT, AND CLOSURE OF DEPOSITORY INSTITUTIONS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

(a) Consent to Support Enforcement.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, instrumentality or subdivision thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan, or by a State child support enforcement agency or any individual, to enforce the legal obligation of the individual to provide child support or alimony."

(b) Consent to CLOSURE FOR ENFORCEMENT TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is
accompanied by sufficient data to permit prompt identification of the individual and the moneys involved, the governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

(6) Designation of Agent: Response to Notice or Process—(A) Designation of Agent.—The head of each agency subject to this section shall—

(i) if the agency is a Federal employee whose duties include service of process in matters relating to child support or alimony payments, the agent shall—

(1) as soon as possible (but not later than 15 days from the date of notice or service of process) select an individual to serve as the agent for the agency, or designate an individual who is effective to respond to legal process served for the enforcement of an order or a judgment where the individual is served with process, as provided in this section.

(2) in the case of a foreign country with which the United States has an obligation to provide the same, the Department of State, the Attorney General, or the United States Marshal, as provided in section 459 of the Social Security Act (42 U.S.C. 661. and 662), may be designated as the agent for the agency.

(B) annually publish in the Federal Register the designation of the agent or agents, and the designation of the agent or agents, as provided in this section.

(ii) notice or service of process to the individual at his last-known home address of the individual.

(3) without prejudice to the right of the individual to make a payment from the moneys held moneys which are otherwise payable to an individual to a private person, except as otherwise provided in this section.

(iii) if an agency fails to comply with paragraph (2), the United States held moneys which are otherwise payable to an individual to a private person, except as otherwise provided in this section.

(4) any Federal program established under Federal or State law; but

(5) the individual to provide the services of the individual, whether the individual is an employee or a contractor, or is engaged in the services of the individual.

(5) Designation of Agent: Response to Notice or Process—(A) in the case of a foreign country with which the United States has an obligation to provide the same, the Department of State, the Attorney General, or the United States Marshal, as provided in section 459 of the Social Security Act (42 U.S.C. 661. and 662), may be designated as the agent for the agency.

(B) annually publish in the Federal Register the designation of the agent or agents, and the designation of the agent or agents, as provided in this section.

(ii) notice or service of process to the individual at his last-known home address of the individual.

(3) without prejudice to the right of the individual to make a payment from the moneys held moneys which are otherwise payable to an individual to a private person, except as otherwise provided in this section.

(4) any Federal program established under Federal or State law; but

(5) the individual to provide the services of the individual, whether the individual is an employee or a contractor, or is engaged in the services of the individual.

(6) Designation of Agent: Response to Notice or Process—(A) in the case of a foreign country with which the United States has an obligation to provide the same, the Department of State, the Attorney General, or the United States Marshal, as provided in section 459 of the Social Security Act (42 U.S.C. 661. and 662), may be designated as the agent for the agency.

(B) annually publish in the Federal Register the designation of the agent or agents, and the designation of the agent or agents, as provided in this section.

(ii) notice or service of process to the individual at his last-known home address of the individual.

(3) without prejudice to the right of the individual to make a payment from the moneys held moneys which are otherwise payable to an individual to a private person, except as otherwise provided in this section.

(4) any Federal program established under Federal or State law; but

(5) the individual to provide the services of the individual, whether the individual is an employee or a contractor, or is engaged in the services of the individual.

(6) Designation of Agent: Response to Notice or Process—(A) in the case of a foreign country with which the United States has an obligation to provide the same, the Department of State, the Attorney General, or the United States Marshal, as provided in section 459 of the Social Security Act (42 U.S.C. 661. and 662), may be designated as the agent for the agency.

(B) annually publish in the Federal Register the designation of the agent or agents, and the designation of the agent or agents, as provided in this section.

(ii) notice or service of process to the individual at his last-known home address of the individual.

(3) without prejudice to the right of the individual to make a payment from the moneys held moneys which are otherwise payable to an individual to a private person, except as otherwise provided in this section.

(4) any Federal program established under Federal or State law; but

(5) the individual to provide the services of the individual, whether the individual is an employee or a contractor, or is engaged in the services of the individual.
(c) MILITARY RETIRED AND RETAINER PAY—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by substituting "and" for "or" at the end of subparagraph (B); and

(B) by striking the period at the end of subparagraph (A), and inserting a period at the end of subparagraph (B).

(2) DUTY ADDRESS.—Section 1408(d)(2) of such title is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement." before "which—"

(3) PUBLIC PAYEE.—Section 1408(g)(2) of such title is amended by inserting "or for the benefit of such spouse or child" before "public payee designated by inserting "(or for the benefit of such spouse or child)" before "SPOUSE OR CHILD"

(4) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 659(i))), (A) the term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)); and (B) the term "court" has the meaning given such term in section 1408(a) of title 10, United States Code.

(5) DEFINITIONS.—For purposes of this subsection—

(A) the term "court" has the meaning given such term in section 1408(a) of title 10, United States Code;

(B) the term "court order" means a judgment or order that requires the individual to—

1. seek a court order or administrative order that requires the individual to—

(A) determine whether a member of the Armed Forces is a child support debtor with respect to which such a court order or administrative order has been issued under State law; and

(B) to determine whether a member of the Armed Forces is a child support debtor with respect to which such a court order or administrative order has been issued under State law;

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(D)emporary leave to a member of the Armed Forces under a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam; and

(E) AVAILABILITY OF LOCATOR INFORMATION.—The Secretary of Transportation, and the Secretary of the Treasury, shall provide—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces located in the continental United States shall be the residential address of that member;

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, or to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned determines that it is not in the interests of the Armed Forces that the residential address should not be disclosed due to national security or safety concerns.

(C) UPDATING OF LOCATOR INFORMATION.—When any member listed in the locator service has moved a new residential address (or a new duty address, in the case of a member covered by paragraph (B)(i)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(2) TYPE OF ADDRESS.—(A) MILITARY RETIRED AND RETAINER PAY.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by redesignating subsections (i) and (ii) as (i) and (ii), respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(3) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(b)(1) of such title is amended by adding after the 1st sentence the following: "In the case of a spouse or former spouse who assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to the individual to whom the Secretary has assigned such rights.'"
(a) Procedures under which —

(1) The Secretary shall establish a process for the certification of a non-custodial parent who is subject to a child support order pursuant to section 428(c) to a financial institution to provide an agreement to hold or release child support payments.

(b) The Secretary shall provide a non-custodial parent with the opportunity to appeal an agency determination that relates to the withholding of child support payments.

(c) The Secretary shall establish a process for the collection of child support payments from a non-custodial parent who is subject to a child support order pursuant to section 428(c).

(d) The Secretary shall provide for appropriate adjustments to the amounts of child support orders entered into under section 428(c) to reflect changes in the economic circumstances of the non-custodial parent.

SEC. 7371. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

The Secretary shall enter into an agreement with the Department of State, and with appropriate departments and agencies of any State, that provides for a cooperative effort to enforce child support orders entered into under section 428(c) for the benefit of a child who is a citizen of any country other than the United States.

(a) In General — The Secretary shall enter into an agreement with the Department of State, and with appropriate departments and agencies of any State, that provides for a cooperative effort to enforce child support orders entered into under section 428(c) for the benefit of a child who is a citizen of any country other than the United States.

(b) The Secretary shall enter into an agreement with the Department of State, and with appropriate departments and agencies of any State, that provides for a cooperative effort to enforce child support orders entered into under section 428(c) for the benefit of a child who is a citizen of any country other than the United States.

(c) The Secretary may enter into agreements with appropriate departments and agencies of the Federal Government, including the Department of State, the Department of Justice, and the Department of Health and Human Services, to coordinate the enforcement of child support orders entered into under section 428(c).

(d) The Secretary shall provide for appropriate adjustments to the amounts of child support orders entered into under section 428(c) to reflect changes in the economic circumstances of the non-custodial parent.

(e) The Secretary shall provide for appropriate adjustments to the amounts of child support orders entered into under section 428(c) to reflect changes in the economic circumstances of the non-custodial parent.

(f) The Secretary shall provide for appropriate adjustments to the amounts of child support orders entered into under section 428(c) to reflect changes in the economic circumstances of the non-custodial parent.

SEC. 7372. DENIAL OF LICENSES.

(a) In General — The Secretary may suspend or cancel a license or certification issued under section 450(b) of title 25, United States Code, if a non-custodial parent is subject to a child support order entered into under section 428(c) and fails to pay the amounts due under the child support order.

(b) The Secretary may suspend or cancel a license or certification issued under section 450(b) of title 25, United States Code, if a non-custodial parent is subject to a child support order entered into under section 428(c) and fails to pay the amounts due under the child support order.

(c) The Secretary may suspend or cancel a license or certification issued under section 450(b) of title 25, United States Code, if a non-custodial parent is subject to a child support order entered into under section 428(c) and fails to pay the amounts due under the child support order.

SEC. 7373. DENIAL OF PASSPORTS.

(a) In General — The Secretary may deny a passport to a non-custodial parent who is subject to a child support order entered into under section 428(c) and fails to pay the amounts due under the child support order.

(b) The Secretary may deny a passport to a non-custodial parent who is subject to a child support order entered into under section 428(c) and fails to pay the amounts due under the child support order.

(c) The Secretary may deny a passport to a non-custodial parent who is subject to a child support order entered into under section 428(c) and fails to pay the amounts due under the child support order.

SEC. 7374. INTERNSHIP AND TRAINING.

(a) In General — The Secretary shall establish a program to provide internships and training opportunities for child support enforcement professionals.

(b) The Secretary shall establish a program to provide internships and training opportunities for child support enforcement professionals.

(c) The Secretary shall establish a program to provide internships and training opportunities for child support enforcement professionals.

SEC. 7375. COOPERATIVE ENFORCEMENT AGREEMENTS.

(a) The Secretary shall enter into agreements with appropriate departments and agencies of the Federal Government to cooperate in the enforcement of child support orders entered into under section 428(c).

(b) The Secretary shall enter into agreements with appropriate departments and agencies of the Federal Government to cooperate in the enforcement of child support orders entered into under section 428(c).

(c) The Secretary shall enter into agreements with appropriate departments and agencies of the Federal Government to cooperate in the enforcement of child support orders entered into under section 428(c).

SEC. 7376. SENSE OF THE CONGRESS.

(a) The Congress hereby reaffirms its commitment to the principles of the Family Support Act of 1988 and urges the Secretary to continue to take all necessary actions to ensure the effective implementation of the provisions of that Act.

(b) The Congress hereby reaffirms its commitment to the principles of the Family Support Act of 1988 and urges the Secretary to continue to take all necessary actions to ensure the effective implementation of the provisions of that Act.

(c) The Congress hereby reaffirms its commitment to the principles of the Family Support Act of 1988 and urges the Secretary to continue to take all necessary actions to ensure the effective implementation of the provisions of that Act.

SEC. 7377. FEDERAL INSTITUTIONS.

(a) The Secretary shall enter into agreements with appropriate departments and agencies of the Federal Government to cooperate in the enforcement of child support orders entered into under section 428(c).

(b) The Secretary shall enter into agreements with appropriate departments and agencies of the Federal Government to cooperate in the enforcement of child support orders entered into under section 428(c).

(c) The Secretary shall enter into agreements with appropriate departments and agencies of the Federal Government to cooperate in the enforcement of child support orders entered into under section 428(c).

SEC. 7378. SENSE OF THE CONGRESS REGARDING THE IMPACT OF THE NON-CUSTODIAL PARENT ON PAYING CHILD SUPPORT.

(a) The Congress hereby reaffirms its commitment to the principles of the Family Support Act of 1988 and urges the Secretary to continue to take all necessary actions to ensure the effective implementation of the provisions of that Act.

(b) The Congress hereby reaffirms its commitment to the principles of the Family Support Act of 1988 and urges the Secretary to continue to take all necessary actions to ensure the effective implementation of the provisions of that Act.

(c) The Congress hereby reaffirms its commitment to the principles of the Family Support Act of 1988 and urges the Secretary to continue to take all necessary actions to ensure the effective implementation of the provisions of that Act.
CHAPTER 8—MEDICAL SUPPORT

SEC. 7378. TECHNICAL CORRECTION TO ERISA
DEFINITION OF MEDICAL CHILD SUPPORT ORDER


(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (i) and inserting in its place a colon; and

(3) by adding, after and below clause (ii), the following: "if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law."

(b) EFFECTIVE DATE—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall be made by the employer, which shall not be required to be made before the first plan year beginning on or after January 1, 1996.

(3) DURING THE PERIOD AFTER THE DATE BEFORE THE DATE OF THE ENACTMENT OF THIS ACT AND BEFORE SUCH 1ST PLAN YEAR, THE PLAN IS OPERATED IN ACCORDANCE WITH THE REQUIREMENTS OF THE AMENDMENTS MADE BY THIS SECTION AND SUCH PLAN AMENDMENT APPLIES RETROACTIVELY TO THE PERIOD AFTER THE DATE BEFORE THE DATE OF THE ENACTMENT OF THIS ACT AND BEFORE SUCH 1ST PLAN YEAR.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with the provisions of this Act and such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

Chapter 9—Enhancing Responsibility and Opportunity for Nonresident Parents

SEC. 7381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS

Part D of title IV (42 U.S.C. 651-669) is amended by adding at the end the following new section:

"SEC. 7494A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to States to establish and administer programs to support and facilitate access to and visitation of children by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, support enforcement, and courtroom-assisted and noncourt assister), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant under this section for a fiscal year shall be an amount equal to the lesser of—

(1) 20 percent of State expenditures during the fiscal year for activities described in subsection (a); or

(2) the allotment of the State under section (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—Each grant to a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for such fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM AMOUNT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

(A) $50,000 for fiscal year 1996, or

(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1996.

"(e) GRACE PERIOD FOR STATE LAW CHANGES.—

(1) the provision of this subsection requiring the amendment or enactment of State laws under section 468 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subsection shall become effective upon the date of the enactment of this Act.

"(f) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subsection shall become effective with respect to a State on the later of—

(1) the date specified in subsection (e), or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions.

"(g) IN GENERAL.—If a determination described in paragraph (a) is made, the amount of income and resources of any person who, as a sponsor of such individual's entry into the United States, is able to provide support for the person in the United States, and the amount of income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such individual.

Chapter 10—Effect of Enactment

SEC. 7391. EFFECTIVE DATES

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c)),—

(1) the provisions of this subsection requiring the amendment or enactment of State laws under section 468 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subsection shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—

The provisions of this subsection shall become effective with respect to a State on the later of—

(1) the date specified in subsection (c), or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions.

"(i) IN GENERAL.—If a determination described in paragraph (a) is made, the amount of income and resources of any person who, as a sponsor of such individual's entry into the United States, is able to provide support for the person in the United States, and the amount of income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such individual.

Chapter 11—Deemed Income and Resources

SEC. 7402. DEEMED INCOME REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS

(a) DEEMED REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (b), for purposes of determining the eligibility of an individual (whether a citizen or national of the United States or an alien) for assistance and the amount of assistance, under any Federal program of assistance provided or funded, in whole or in part by the Federal Government for which eligibility is based on need, the income and resources described in subsection (a) shall be deemed to be the income and resources of such individual.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the following:

(1) The income and resources of any person who, as a sponsor of such individual's entry into the United States, is able to provide support for the person in the United States, and the amount of income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such individual.

Chapter 12—Limitation on Measurement of Deemed Income and Resources

SEC. 7403. LIMITATION ON MEASUREMENT OF DEEMED INCOME AND RESOURCES—

(a) IN GENERAL.—If a determination described in paragraph (a) is made, the amount of income and resources of any person who, as a sponsor of such individual's entry into the United States, is able to provide support for the person in the United States, and the amount of income and resources described in subsection (b) shall be deemed to be the income and resources of such individual.

(b) DEEMED AUTHORITY TO STATE AND LOCAL AGENCIES.

"(c) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to an exception equivalent to that in subsection (d), the State or local government may, for purposes of determining the eligibility of an individual (whether a citizen or national of the United States or an alien) for assistance, and the amount of assistance, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government other than a program described in subsection (a), require that the income and resources described in paragraph (2) be deemed to be the income and resources of such individual.

(2) DEEMED INCOME AND RESOURCES.—The income and resources described in this paragraph include the following:

(a) The income and resources of any person who, as a sponsor of such individual's entry into the United States, is able to provide support for the person in the United States, and the amount of income and resources described in subsection (b) shall be deemed to be the income and resources of such individual.
into the United States, or in order to enable such individual lawfully to remain in the United States, to execute an affidavit of support or similar agreement with respect to such individual.

(b) The income and resources of the sponsor's spouse, parent, or other individual providing such support shall be credited toward such requirement.

(3) LENGTH OF DEEMED INCOME PERIOD.—Subject to section 212(a)(4). the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in paragraph (1) so that it shall be deemed to apply to a noncitizen for a period of 5 years beginning on the date such individual entered lawfully in the United States under section 212(a)(1) of title 8.

(4) NOTIFICATION OF CHANGE OF ADDRESS.—(I) In general.—The sponsor shall notify the Secretary of Health and Human Services, in the case of any change of address occurring during the period specified in subsection (a), of the new address of the individual.

(II) Procedures.—The Secretary may by regulation establish procedures for the notification required by clause (I), including procedures for the notification of change of address required by clause (I).

(5) JURISDICTION.—(I) In general.—No State or local court shall decline for lack of jurisdiction to hear any action brought against a sponsor for reimbursement of the cost of any medical care or assistance while residing in the State.

(II) Effect of judgment or order.—If a State or local court declines to hear any action against a sponsor for reimbursement of the cost of any medical care or assistance while residing in the State, the case shall be brought under this subsection later than 60 days of such failure, bring an action against the sponsor in the manner of such State or local court.

(III) Appeals.—Any appeal from such an action shall be heard by the appropriate Federal, State, or local agency.

(6) REGULATIONS.—The Commissioner of Social Security, in consultation with the Attorney General and the State, district, territorial, or possession in which the sponsored individual is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a), may, by regulation, establish procedures for the notification required by paragraph (4)(I).

(a) IN GENERAL.—(1) Section 1621 (42 U.S.C. 13821) is repealed.

(2) By adding at the end the following new subparagraphs—

(A) Emergency medical services under title XXI of the Social Security Act.

(B) The medicaid program under title XIX of the Social Security Act.

(C) The food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(D) The supplemental security income program under title XVI of the Social Security Act.

(E) Any State general assistance program.

(F) Any Federal, State, or local agency has not received a reimbursement request reimbursement by the sponsor in the manner of part.

(b) Compliance.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out paragraph (1). Such regulations shall provide for notification to the sponsor on the affidavit of support.

(c) Reimbursement.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought by the agency on behalf of the sponsor pursuant to the affidavit of support.

(d) ACTION IN CASE OF FAILURE.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(e) STATUTE OF LIMITATIONS.—No cause of action may be brought under this subsection later than 10 years after the sponsored individual last received any benefit under a program described in paragraph (1).

(f) JURISDICTION.—For purposes of this section, no State court shall decline for lack of jurisdiction to hear any action brought against a sponsor for reimbursement of the cost of any benefit under a program described in subparagraph (B) if the sponsored individual received public assistance while residing in the State.

(g) DEFINITIONS.—For purposes of this section:

(I) The term "sponsor" means an individual who—

(A) is a United States citizen or national or an alien lawfully admitted to the United States for permanent residence;

(B) is 18 years of age or over;

(C) is domiciled in any of the several States of the United States, any insular possession, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 100 percent of the poverty line for the individual and the individuals included in such individual's family (including any noncitizen child of the individual), through evidence that shall include a copy of the individual's Federal income tax return for his or her most recent tax year, a written statement of income, or a certificate of tax status or as permitted under penalty of perjury under section 7206 of title 26. United States Code, if the copies are true copies of such returns.

(II) The term "poverty line" has the same meaning given such term in section 672(2) of the Community Services Block Grant Act (42 U.S.C. 9902); and

(III) The term "qualifying quarter" means a calendar quarter in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 calendar quarters required to qualify for social security retirement benefits;

(B) received needed-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 7404. LIMITED ELIGIBILITY OF NONCITIZENS FORSSI BENEFITS

(a) In general.—(1) Section 161(a) (42 U.S.C. 1382c(a)) is amended—

(A) by striking subparagraph (B)(i)(IV). and inserting "(I) a citizen; (II) a noncitizen who is granted asylum under section 208 of the Immigration and Nationality Act, or whose deportation has been withheld under section 245(h) of such Act for a period of not more than 5 years beginning on or after the date of arrival into the United States; (III) a noncitizen who is admitted to the United States as a refugee under section 207 of such Act for not more than such 5-year period; (IV) a noncitizen lawfully present in the United States for not more than 5 years beginning on or after the date of arrival into the United States, or (V) a noncitizen who has returned to the United States for not more than 5 years beginning on or after the date of entry into the United States."

(b) Enforcement.—(1) Enforcement of this section.—(A) Enforcement of this section shall apply with respect to the benefits of such Act. and (B) the amendments made by subsection (a) shall apply to applicants for benefits for months beginning on or after the date of enactment of this Act, with regard to whether regulations have been issued to implement such amendments.

(c) EFFECTIVE DATE.—(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(d) APPLICABILITY TO CURRENT BENEFICIARIES.—(1) No existing beneficiaries of the Social Security Administration shall apply with respect to the benefits of such section.

(2) The amendments made by subsection (a) shall apply to beneficiaries who have not been issued regulations applicable to such individuals consistent with the amendments made by subsection (a) by the date of enactment of this Act. and (B) the amendments made by subsection (a) shall not apply with respect to the benefits of such individual for months beginning before the date of the enactment of this Act.
(B) REAPPLICATION.—
(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual who desires to be eligible for benefits under title XXVII of the Social Security Act shall reapply to the Commissioner of Social Security for eligibility under title XVI of the Social Security Act. Each Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of and other identifying information on, any individual who the Commissioner knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of title IV of the Social Security Act provides that the Commissioner shall furnish such information at such times with respect to any individual who the Immigration and Naturalization Service determines that such individual is unlawfully in the United States.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, each Secretary shall determine the eligibility of each individual who has entered the United States on or after the date of the enactment of this Act shall not be entitled to such benefits.
the Committee on Labor and Human Resources of the Senate.

(c) IN GENERAL.—Not later than December 31, 1998, and each December 31 thereafter, each Secretary shall prepare and submit to the relevant Committees a report containing any changes with respect to the determinations made under subsection (c) for the year in which the report is being submitted.

(c) DETERMINATIONS.—Not later than December 31, 1998, each Secretary referred to in subsection (b)(2) shall determine—

(1) the number of full-time equivalent positions required by the Department to carry out the activity, as of the date before the date of enactment of this Act;

(2) the number of such positions required by the Department to carry out the activity, as of the day before the effective date of the Department and;

(3) the difference obtained by subtracting the number referred to in paragraph (2) from the number referred to in paragraph (1).

(d) ACTIONS.—Not later than 30 days after the applicable effective date for the Department, each Secretary referred to in subsection (b)(2) shall take such actions as may be necessary to reduce the difference referred to in paragraph (3).

(e) CONSISTENCY.—

(1) EDUCATION.—The Secretary of Education shall carry out this section in a manner that enforces the requirements of this section.

(2) LABOR.—The Secretary of Labor shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(f) HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(g) REPORT ON CHANGES.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with the progress of the changes that have been made in carrying out the goals described in paragraphs (1) and (3) of subsection (a).

(h) CLOSING PROVISIONS.—

(1) In General.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(i) preventing an additional 2 percent of out-of-wedlock teenage pregnancies a year; and

(ii) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(2) REPORTING.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with the progress of the changes that have been made in carrying out the goals described in paragraphs (1) and (3) of subsection (a).

(5) OUT-OF-WEDLOCK AND TEENAGE PREGNANCY PREVENTION PROGRAMS.—Not later than June 30, 1998, submit to the Congress a report on the study required under paragraph (1).

CHAPTER 3—FOSTER CARE MAINTENANCE PAYMENTS

SEC. 4711. LIMITATION ON GROWTH OF ADMINISTRATIVE EXPENSES FOR FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

Section 471(b)(42 U.S.C. 674a) is amended by adding at the end the following new paragraph:

(3) Not later than June 30, 1998, the Secretary shall report to the Congress on the study required under paragraph (1).
(2) estimates over each of the next 7 fiscal years of the costs to States of any other requirements imposed on them by such legislation.

SEC. 7464. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(A) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking "and" at the end of subparagraph (C) and inserting "or" after subparagraph (E).

(B) MODIFIED ADJUSTED CROSS INCOME DEFINED.—Section 32(e)(2)(B) of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by striking "and" after subparagraph (A) and inserting "or" after subparagraph (E).

(C) EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(1) (a) IN GENERAL.—Section 32(c)(1) (relating to individuals claiming the earned income tax credit) is amended by adding at the end of the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term "eligible individual" does not include any individual who includes an entry on a return claiming the credit and the phaseout amount is:

"(ii) determined without regard to—

(C) EFFECTIVE DATE.—The amendments made by this section shall be applied to taxable years beginning after December 31, 1995.
amended to read as follows: ‘The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, the case may be, the percentage of basic pay applicable under subsection (c).’

(2) AGENCY CONTRIBUTIONS—
(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—
(i) by inserting ‘(A)’ after ‘(I)’ and
(ii) by inserting ‘The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, the case may be, the percentage of basic pay applicable under subsection (c).’

(3) INDIVIDUAL DEDUCTIONS—
The provisions attributable to decreases in agency contributions by military retirees and to increases in agency contributions by other military retirees is amended to read as follows: ‘...the percentage of basic pay applicable under subsection (c).’

SEC. 7466. PROVISIONS TO IMPROVE TAX COMPLIANCE

SEC. 8001. EXTENSION OF DELAY IN COST-OFFIVING ADJUSTMENTS IN FEDERAL EMERGENCY AND RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.


SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM—

(1) DEDUCTIONS.—The first sentence of section 4102(a) of title 5, United States Code, is amended—

SEC. 7471. INCREASE IN PUBLIC INCOME CREDIT

SEC. 7472. PROVISIONS TO IMPROVE TAX COMPLIANCE

SEC. 7473. INCREASE IN MIDSHIPMEN'S AND UNIVERSITY commitment retirement benefits

SEC. 7474. PROVISIONS TO IMPROVE TAX COMPLIANCE

SEC. 7475. INCREASE IN MIDSHIPMEN'S AND UNIVERSITY commitment retirement benefits

SEC. 7476. PROVISIONS TO IMPROVE TAX COMPLIANCE

SEC. 7477. INCREASE IN MIDSHIPMEN'S AND UNIVERSITY commitment retirement benefits

SEC. 7478. PROVISIONS TO IMPROVE TAX COMPLIANCE

SEC. 7479. INCREASE IN MIDSHIPMEN'S AND UNIVERSITY commitment retirement benefits

SEC. 7480. INCREASE IN MIDSHIPMEN'S AND UNIVERSITY commitment retirement benefits
CONGRESSIONAL RECORD — SENATE

October 30, 1995

SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (d) by striking out "Congressional employee".

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATES.—

(I) YEARS OF SERVICE: ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

11 (2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

TITLE IX—COMMITTEE ON THE JUDICIARY

SEC. 8001. PATENT AND TRADEMARK FEES

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 4) is amended—

(I) in subsection (a) by striking "1998" and inserting "2002"; and

(II) in subsection (b) by striking "1998" and inserting "2002": and

(III) in subsection (c)—

(A) by striking "1998" and inserting "2002"; and

(B) by adding at the end the following:

"(9) $19,000,000 in fiscal year 1999.

(10) $19,000,000 in fiscal year 2000.

(11) $19,000,000 in fiscal year 2001.

(12) $19,000,000 in fiscal year 2002.

TITLE X—COMMITTEE ON LABOR AND HUMAN RESOURCES

SECTION 10001. REFERENCES: GENERAL EFFECTIVE-DATE

(a) REFERENCES.—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 Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(b) GENERAL EFFECTIVE DATE.—Unless otherwise specifically in this title, the amendments made by this title shall take effect on January 1, 1996.
becomes a member of the Armed Forces or enters on active duty during any fiscal year beginning on or after October 1, 1996, and before September 30, 1997, and who does not make an election under subsection (d)(1) of this section, shall be reduced, for each of the first 12 months that such individual is on active duty, by an amount equal to the amount of the reduction required under this subsection during the preceding fiscal year increased by the percentage, if any, of amounts payable for educational assistance are increased under section 301(g) of this title with respect to the fiscal year during which the individual first becomes a member of the Armed Forces or enters on active duty.

(2) Any amount by which the basic pay of an individual is reduced under this chapter shall result in the same manner and shall not for purposes of any Federal law be considered to have been received by or to be within the control of such individual.

Subtitle D—Miscellaneous

SEC. 11441. CLARIFICATION OF ENTITLEMENT FOR BENEFITS FOR DISABILITY RESULTING FROM TREATMENT OR VACCINATION SERVICES PROVIDED BY DEPARTMENT OF VETERANS AF

(a) CLARIFICATION.—The text of section 1151 of title 38, United States Code, is amended to read as follows:

"(a) Disability or death compensation shall be increased under this chapter, and dependency and indemnity compensation shall be awarded under chapter 13 of this title, for additional disability or death of a veteran in the same manner as if such additional disability or death, as the case may be, were service-connected if such additional disability or death—" (A) is the result of the veteran's willful misconduct; and

(B) results from—"

"(i) gross negligence, lack of proper skill, error in judgment, or similar instance of fault in any hospital care, medical or surgical treatment, or examination furnished either by a Department employee or in a Department facility under any of the laws administered by the Secretary;

"(ii) an event in such hospital care, medical or surgical treatment, or examination that is not reasonably foreseeable or"

"(iii) the provision of training and rehabilitative services by or for a service provider by the Secretary for such provision under section 1115 of this title as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of paragraph (1), the term 'Department facility' means a facility over which the Secretary has direct jurisdiction.

"(b) Where an individual is, on or after December 1, 1996, awarded a judgment against the United States in a civil action brought pursuant to section 1346 of title 28 or, on or after December 1, 1996, enters into a settlement or compromise on account of a disability or death treated pursuant to this section as if it were service-connected, no benefit shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability or death becomes final until the aggregate amount of benefits which would be paid but for this subsection equals the total amount included in such judgment, settlement, or compromise.

Effect of Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to claims filed (including original claims and applications to reopen previously denied claims) on or after that date, regardless of the date of the occurrence of an additional disability or death upon which the claims are based.
**SEC. 12001. CREDIT FOR ADOPTION EXPENSES.**

(a) **ALLOWANCE OF CREDIT.**—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year beginning after December 31, 1995, an amount determined under section 21(a). In the case of a joint return, the credit allowable under this subsection shall be determined by subtracting the sum of the credits allowable under section 21(a) for such taxable years of the individuals filing the joint return.

(b) **LIMITATIONS.**—

(1) **IN GENERAL.**—The amount of the credit which would [but for this subsection] be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer’s adjusted gross income exceeds the threshold amount.

(2) **THRESHOLD AMOUNT.**—For purposes of paragraph (1), the term ‘threshold amount’ means—

- For taxable years beginning after December 31, 1995:
  - 1996: $8,000
  - 1997: 7,500
  - 1998: 7,500
  - 1999: 7,500
  - 2000: 8,200
  - 2001: 8,600
  - 2002: 9,100
  - 2003: 9,100
  - 2004: 9,500
  - 2005 and thereafter: 10,800

(c) **LIMITATION OF ADDITIONS TO EXCESSIVE APPLICABLE DOLLAR AMOUNT.**—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

- The amount (if any) by which the taxpayer’s tax liability exceeds $15,000, bears to 
- $10,000.

(d) **QUALIFIED ADOPTION EXPENSES.**—For purposes of this subsection, the term ‘qualified adoption expenses’ means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

- Which are directly related to, and the principal purpose of which is, the final adoption of an eligible child by the taxpayer, and
- Which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

(e) **EXCEPTIONS FOR ADOPTION OF SPOUSE’S CHILD NOT ELIGIBLE.**—The term ‘qualified adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

(f) **LIMITATIONS.**—

(1) **DOLLAR LIMITATION.**—The aggregate amount allowable under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

- The amount (if any) by which the taxpayer’s tax liability exceeds $15,000, bears to 
- $10,000.

(g) **DOUBLE BENEFIT.**—

(1) **IN GENERAL.**—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

(2) **GRANTS.**—No credit shall be allowed under subsection (a) for any expense which is eligible for the credit under section 25A, or for purposes of this section.

(h) **REIMBURSEMENT.**—No credit shall be allowed under subsection (a) for any expense to the extent that reimbursement is excluded from gross income under section 137.

(i) **CARRYFOWARDS OF UNUSED CREDIT.**—If the credit allowed under subsection (a) for any taxable year exceeds the limitation imposed by section 256(a) for such taxable year, the excess shall be carried forward to the succeeding taxable year.

(j) **QUALIFIED ADOPTION EXPENSES.**—For purposes of this section, the term ‘qualified adoption expenses’ has the meaning given such term by section 24(d).
(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12965. CHURCH PLANS MAY ANNUNITIZE BENEFITS.

(a) In General.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e)) that is a church plan (within the meaning of section 414(e)) under paragraph (1) of section 401(a) (or 401(a)(9)), or an account which consists of qualified voluntary employee contributions described in section 219(e)(2) of such Code (as in effect before the date of the enactment of the Tax Reform Act of 1986) and earnings thereon, shall not fail to be described in such sections merely because it pays benefits to participants (and their beneficiaries) from a pool of assets to which contributions are made under such section 403(b)(9) or such Code, or an account which consists of qualified voluntary employee contributions described in section 414(e)(3)(A) of such Code, rather than through the purchase of annuities from an insurance company.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

SEC. 12966. CHURCH PLANS MAY INCREASE BENEFITS.

(a) In General.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e)) that is a plan described in section 401(a) or 401A of such Code, or an account which consists of qualified voluntary employee contributions described in section 219(e)(2) of such Code (as in effect before the date of the enactment of the Tax Reform Act of 1986) and earnings thereon, shall not fail to be described in such sections merely because it pays benefits to participants (and their beneficiaries) from a pool of assets to which contributions are made under such section 403(b)(9) or such Code, or an account which consists of qualified voluntary employee contributions described in section 414(e)(3)(A) of such Code, rather than through the purchase of annuities from an insurance company.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

SEC. 12967. RULES APPLICABLE TO SELF-INSURED MEDICAL REIMBURSEMENT PLANS NOT TO APPLY TO PLANS OF CHURCHES.

(a) In General.—Section 105(h) is amended by adding at the end the following new paragraph:

"(ii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12968. RETIREMENT BENEFITS OF MINORS—IMMUNITY FROM TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) In General.—Section 1402(a)(3) (defining net earnings from self-employment) is amended by inserting "but shall not include in such net earnings from self-employment any retirement benefits described in subsection (d) from a church plan (as defined in section 414(f)(6)) before the standard calendar year at the end of which the employee attained age 21", before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after December 31, 1994.
recently reached Zenica and reported that nearly 2,000 family members from this group are still unaccounted for.

(5) The United Nations spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped". Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eyewitness accounts as "prima facie evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal".

(8) The United Nations High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremberg" on October 16, 1995, President Clinton cited the "excellent progress of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails."

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crimes Tribunal for the former Yugoslavia.

(7) "Ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in the former Yugoslavia must be held accountable.
H. R. 2491

One Hundred Fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday, the fourth day of January, one thousand nine hundred and ninety-five

An Act

To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Act of 1995".

Sec. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Agriculture and Related Provisions
Title II—Banking, Housing, and Related Provisions
Title III—Communication and Spectrum Allocation Provisions
Title IV—Education and Related Provisions
Title V—Energy and Natural Resources Provisions
Title VI—Federal Retirement and Related Provisions
Title VII—Medicaid
Title VIII—Medicare
Title IX—Transportation and Related Provisions
Title X—Veterans and Related Provision
Title XI—Revenues
Title XII—Teaching hospitals and graduate medical education; asset sales; welfare; and other provisions

TITLE I—AGRICULTURE AND RELATED PROVISIONS

SEC. 1001. SHORT TITLE: TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1101. Short title.
Sec. 1102. Definitions.
Sec. 1103. Production flexibility contracts.
Sec. 1104. Nonrecourse marketing assistance loans and loan deficiency payments.
Sec. 1105. Payment limitations.
Sec. 1106. Peanut program.
Sec. 1107. Sugar program.
Sec. 1108. Administration.
Sec. 1109. Elimination of permanent price support authority.
Sec. 1110. Effect of amendments.

Subtitle A—Agricultural Market Transition Program

Subtitle B—Conservation

Subtitle A—Agricultural Market Transition Program

SEC. 1101. SHORT TITLE.
This subtitle may be cited as the "Agricultural Market Transition Act".

SEC. 1102. DEFINITIONS.
In this subtitle:
(1) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) (as in effect prior to the amendment made by section 1109(b)(2)).
(2) CONTRACT.—The term "contract" means a production flexibility contract entered into under section 1103.
(3) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)). If a crop acreage base was not enrolled in an annual program for the 1995 crop in order to increase crop acreage base, the contract acreage for the 1996 crop shall reflect the increased base acreage that would have been established under title V of the Act (as so in effect).
(4) CONTRACT COMMODITY.—The term "contract commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.
(5) CONTRACT PAYMENT.—The term "contract payment" means a payment made under section 1103 pursuant to a contract.
(6) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under title V of the Agricultural Act of 1949 (as in effect prior to the amendment made by section 1109(b)(2)).
(7) LOAN COMMODITY.—The term "loan commodity" means each contract commodity, extra long staple cotton, and oilseeds.
(8) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.
(9) PROGRAM.—The term "program" means the agricultural market transition program established under this subtitle.
(10) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 1103. PRODUCTION FLEXIBILITY CONTRACTS.
(a) CONTRACTS AUTHORIZED.—
(1) OFFER AND TERMS.—Beginning as soon as practicable after the date of the enactment of this subtitle, the Secretary
Subtitle M—Increase in Public Debt Limit

SEC. 11901. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained in the first sentence and inserting "$5,500,000,000,000" and by striking the second sentence (if any).

TITLE XII—TEACHING HOSPITALS AND GRADUATE MEDICAL EDUCATION; ASSET SALES; WELFARE; AND OTHER PROVISIONS

SEC. 12001. SHORT TITLE.

Subtitles A through K of this title may be cited as the "Personal Responsibility and Work Opportunity Act of 1995".

SEC. 12002. TABLE OF CONTENTS.

The table of contents of subtitles A through L of this title is as follows:

Sec. 12001. Short title.
Sec. 12002. Table of contents.
Subtitle A—Block Grants for Temporary Assistance for Needy Families
Sec. 12100. References to the Social Security Act.
Sec. 12101. Block grants to States.
Sec. 12102. Report on data processing.
Sec. 12103. Conforming amendments to the Social Security Act.
Sec. 12104. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 12105. Conforming amendments to other laws.
Sec. 12106. Effective date; transition rule.
Subtitle B—Supplemental Security Income
Sec. 12200. Reference to Social Security Act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS
Sec. 12201. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.
Sec. 12202. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
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SEC. 12100. REFERENCES TO THE SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this subtitle 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.

SEC. 12101. BLOCK GRANTS TO STATES.

Part A of title IV (42 U.S.C. 601 et seq.) is amended to read as follows:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES"

"SEC. 401. ELIGIBLE STATES; STATE PLAN.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that includes the following:

"(i) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State, that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 406.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 402(a)(2)(B)) for calendar years 1996 through 2005.

"(B) SPECIAL PROVISIONS.—

"(i) The document shall indicate whether the State intends to treat families moving into the State from
another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

"(B) have had at least 60 days to submit comments on the plan and the design of such services.

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each Indian who is a member of an Indian tribe in the State that does not have a tribal family assistance plan approved under section 411 with equitable access to assistance under the State program funded under this part.

"(b) SPECIAL RULE FOR FISCAL YEAR 1996.—Notwithstanding subsection (a), the term 'eligible State' means, with respect to fiscal year 1996, a State that has submitted to the Secretary a plan described in subsection (a) within 3 months after the date of the enactment of this part.

"(c) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

"SEC. 402. PAYMENTS TO STATES.

"(a) GRANTS.—

"(1) FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant. The payment of these grants to States shall not be deemed to entitle any individual or family to any assistance under any State program funded under this part.
(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term "State family assistance grant" means the greatest of—

(i) $\frac{1}{3}$ of the total amount required to be paid to the State under section 403 of this title (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect));

(ii) the total amount required to be paid to the State under such section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as so in effect)); or

(iii) $\frac{4}{3}$ of the total amount required to be paid to the State under such section 403 for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under section 403(l) (as so in effect).

(2) GRANT TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—

(A) IN GENERAL.—In addition to any grant under paragraph (1), each eligible State shall be entitled to receive from the Secretary for fiscal year 1998 or any succeeding fiscal year, a grant in an amount equal to the State family assistance grant multiplied by—

(i) 5 percent if—

(I) the illegitimacy ratio of the State for the fiscal year is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995; and

(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995; or

(ii) 10 percent—

(I) if the illegitimacy ratio of the State for the fiscal year is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995; and

(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

(B) ILLEGITIMACY RATIO.—As used in this paragraph, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—

(i) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by
"(ii) the number of births that occurred in the State during the most recent fiscal year for which such information is available.

"(C) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—For purposes of subparagraph (A), the Secretary shall disregard—

"(i) any difference between the illegitimacy ratio of a State for a fiscal year and the illegitimacy ratio of the State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and

"(ii) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—In addition to any grant under paragraph (1), each qualifying State shall, subject to subparagraph (E), be entitled to receive from the Secretary for each of fiscal years 1997, 1998, 1999, and 2000, a grant in an amount equal to the sum of—

"(i) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(ii) 2.5 percent of the sum of—

"(I) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

"(II) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year specified in the matter preceding clause (i).

"(B) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census for the most recent fiscal year for which information is available) exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).

"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—
"(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, as determined by the Bureau of the Census.

"(C) DEFINITIONS.—As used in this paragraph:

"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—

"(I) the sum of—

"(aa) the total amount required to be paid to the State under part A (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—

"(I) the total amount required to be paid to the States under part A (as in effect during fiscal year 1994) for fiscal year 1994; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.

"(E) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to each qualifying State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

"(b) CONTINGENCY FUND.—
"(1) Establishment.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

"(2) Deposits into Fund.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, and 2000 such sums as are necessary for payment to the Fund in a total amount not to exceed $800,000,000.

"(3) Computation of Grant.—

"(A) In General.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State for a fiscal year an amount equal to the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on the date of the enactment of this part) of so much of the expenditures by the State in the fiscal year under the State program funded under this part as exceed the historic State expenditures (as defined in section 408(a)(7)(B)(iii)) for the State.

"(B) Limitation.—The total amount paid to a State under subparagraph (A) for any fiscal year shall not exceed an amount equal to 20 percent of the State family assistance grant for the fiscal year.

"(C) Method of Reconciliation.—If, at the end of any fiscal year, the Secretary finds that a State to which amounts from the Fund were paid in the fiscal year did not meet the maintenance of effort requirement under paragraph (4)(B) for the fiscal year, the Secretary shall reduce the grant payable to the State under subsection (a)(1) for the immediately succeeding fiscal year by such amounts.

"(4) Eligible State.—

"(A) In General.—For purposes of this subsection, a State is an eligible State for a fiscal year, if—

"(i) (I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent; and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) has met the maintenance of effort requirement under subparagraph (B) for the State program funded under this part for the fiscal year.

"(B) Maintenance of Effort.—The maintenance of effort requirement for any State under this subparagraph for any fiscal year is the expenditure by the State during the fiscal year of an amount at least equal to 100 percent of the level of historic State expenditures for the State (as determined under section 408(e)).

"(5) State.—As used in this subsection, the term 'State' means each of the 50 States of the United States and the District of Columbia.

"(c) Condition of Grant.—
"(1) IN GENERAL.—Notwithstanding any other provision of this section, as a condition of receiving a grant under this section, a State shall not provide cash assistance to a family that includes an adult who has received assistance under any State program funded under this part for 60 months (whether or not consecutive) after September 30, 1995, except as provided in paragraphs (2) and (3).

"(2) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant, as the case may be, has received assistance under the State program funded under this part, there shall be disregarded any month for which such assistance was provided with respect to the individual and throughout which the individual was—

"(A) a minor child; and

"(B) not the head of a household or married to the head of a household.

"(3) HARDSHIP EXCEPTION.—

"(A) IN GENERAL.—The State may exempt a family from the application of paragraph (1) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(B) LIMITATION.—The number of families with respect to which an exemption made by a State under subparagraph (A) is in effect for a fiscal year shall not exceed 15 percent of the average monthly number of families to which the State is providing assistance under the program funded under this part.

"(C) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of subparagraph (A), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(i) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(ii) sexual abuse;

"(iii) sexual activity involving a dependent child;

"(iv) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(v) threats of, or attempts at, physical or sexual abuse;

"(vi) mental abuse; or

"(vii) neglect or deprivation of medical care.

"(4) RULE OF INTERPRETATION.—Paragraph (1) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"SEC. 403. USE OF GRANTS.

“(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 402 may use the grant—

“(1) in any manner that is reasonably calculated to increase the flexibility of States in operating a program designed to—

“(A) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
“(B) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

“(C) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

“(D) encourage the formation and maintenance of two-parent families; and

“(2) in any manner that the State was authorized to use amounts received under part A or F of this title, as such parts were in effect on September 30, 1995.

“(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

“(1) LIMITATION.—A State to which a grant is made under section 402 shall not expend more than 15 percent of the grant for administrative purposes.

“(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

“(c) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

“(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to the State under section 402 for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

“(A) Part B of this title.

“(B) Title XX of this Act.

“(C) The Child Care and Development Block Grant Act of 1990.

“(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program.

“(d) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

“(e) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 402 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

“(f) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 402 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.
"SEC. 404. ADMINISTRATIVE PROVISIONS.

(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 402 in quarterly installments.

(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 411(a)(1)(B) with respect to the State.

(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated by the Secretary under paragraph (1) with respect to a State.

(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"SEC. 405. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.

(a) LOAN AUTHORITY.—

(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 408(a)(1) at any time before the loan is to be made.

(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 402(a) may be used including—

(1) welfare anti-fraud activities; and

(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 411.

(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant.

(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.
"(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

"SEC. 406. MANDATORY WORK REQUIREMENTS."

"(a) PARTICIPATION RATE REQUIREMENTS.—

"(1) ALL FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

<table>
<thead>
<tr>
<th>Year</th>
<th>Minimum Participation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>15</td>
</tr>
<tr>
<td>1997</td>
<td>20</td>
</tr>
<tr>
<td>1998</td>
<td>25</td>
</tr>
<tr>
<td>1999</td>
<td>30</td>
</tr>
<tr>
<td>2000</td>
<td>35</td>
</tr>
<tr>
<td>2001</td>
<td>40</td>
</tr>
<tr>
<td>2002 or thereafter</td>
<td>50.</td>
</tr>
</tbody>
</table>

"(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 402 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

<table>
<thead>
<tr>
<th>Year</th>
<th>Minimum Participation Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>50</td>
</tr>
<tr>
<td>1997</td>
<td>75</td>
</tr>
<tr>
<td>1998</td>
<td>75</td>
</tr>
<tr>
<td>1999 or thereafter</td>
<td>90.</td>
</tr>
</tbody>
</table>

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of sub-section (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

(ii) the amount by which—

(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

(II) the number of families receiving such assistance that are subject in such month to a reduction or termination of assistance pursuant to section 408(a)(2) but have not been subject to such penalty for more than 3 months within the
preceeding 12-month period (whether or not consecutive).

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than

"(ii) the number of families that received aid under the State plan approved under part A of this title (as in effect on September 30, 1995) during the fiscal year immediately preceding such effective date.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under such State's plan under the Aid to Families with Dependent Children program, as such plan was in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995. Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 411.

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in work for a month in a fiscal year if the recipient is participating in such activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20
hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6));

"If the month is

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Average Number of Hours Per Week</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>20</td>
</tr>
<tr>
<td>1997</td>
<td>20</td>
</tr>
<tr>
<td>1998</td>
<td>20</td>
</tr>
<tr>
<td>1999</td>
<td>25</td>
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<tr>
<td>2000</td>
<td>30</td>
</tr>
<tr>
<td>2001</td>
<td>30</td>
</tr>
<tr>
<td>2002</td>
<td>35</td>
</tr>
<tr>
<td>2003 or thereafter</td>
<td>35.</td>
</tr>
</tbody>
</table>

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in such activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required under this section to participate in work activities, an activity described in subsection (d)(6)).

"(3) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B)(i) of subsection (b), not more than 20 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—

"(1) unsubsidized employment;
"(2) subsidized private sector employment;
"(3) subsidized public sector employment;
"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;
"(5) on-the-job training;
"(6) job search and job readiness assistance;
"(7) community service programs;
"(8) vocational educational training (not to exceed 12 months with respect to any individual);
"(9) job skills training directly related to employment;
"(10) education directly related to employment, in the case of a recipient who has not attained 20 years of age, and has not received a high school diploma or a certificate of high school equivalency; and
"(11) satisfactory attendance at secondary school, in the case of a recipient who—

"(A) has not completed secondary school; and
"(B) is a dependent child, or a head of household who has not attained 20 years of age.

"SEC. 407. PROHIBITIONS.

"(a) IN GENERAL.—

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 402
may not use any part of the grant to provide assistance to a family, unless the family includes—

"(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

"(B) a pregnant individual.

"(2) REDUCED ASSISTANCE FOR FAMILY IF ADULT REFUSES TO WORK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not fail to—

"(i) reduce the amount of assistance otherwise payable to a family receiving assistance under the State program funded under this part, pro rata (or more, at the option of the State) with respect to any period during a month in which an adult member of the family refuses to engage in work required in accordance with this section; or

"(ii) terminate such assistance.

subject to such good cause and other exceptions as the State may establish.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an adult to work if the adult is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

"(i) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.

"(ii) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(iii) Unavailability of appropriate and affordable formal child care arrangements.

"(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

"(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part the share of such assistance attributable to the individual; and

"(B) may deny the family any assistance under the State program.

"(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—A State to which a grant is made under section 402 may not fail to require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not
exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the family leaves the program, shall not apply with respect to—

(i) if the assignment occurs on or after October 1, 1997, and before October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by September 30, 2000; or

(ii) if the assignment occurs on or after October 1, 2000, any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by the date the family leaves the program.

(B) LIMITATION.—A State to which a grant is made under section 402 may not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph (A) which accrue after the date the family leaves the program.

(5) No ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high school education (or its equivalent), if the individual does not participate in—

(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

(B) an alternative educational or training program that has been approved by the State.

(6) No ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

(A) IN GENERAL.—

(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual described in this clause is an individual who—

(I) has not attained 18 years of age; and

(II) is not married, and has a minor child in his or her care.

(B) EXCEPTION.—
"(i) Provision of, or assistance in locating, adult-supervised living arrangement.—In the case of an individual who is described in clause (ii), the State agency referred to in section 401(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(ii) Individual described.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

"(I) the individual has no parent, legal guardian or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(III) the State agency determines that—

"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

"(iii) Second-chance home.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.
"(7) No medical services.—

"(A) In general.—Except as provided in subparagraph (B), a State to which a grant is made under section 402 may not use any part of the grant to provide medical services.

"(B) Exception for family planning services.—As used in subparagraph (A), the term 'medical services' does not include family planning services.

"(8) Denial of assistance for 10 years to a person found to have fraudulently misrepresented residence in order to obtain assistance in 2 or more states.—A State to which a grant is made under section 402 may not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.  

"(9) Denial of assistance for fugitive felons and probation and parole violators.—

"(A) In general.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance to any individual who is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) Exchange of information with law enforcement agencies.—If a State to which a grant is made under section 402 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the recipient flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the recipient flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;
“(II) is violating a condition of probation or parole imposed under Federal or State law; or
“(III) has information that is necessary for the officer to conduct the official duties of the officer; and
“(ii) the location or apprehension of the recipient is within such official duties.
“(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—
“(A) IN GENERAL.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan submitted pursuant to section 401.
“(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 401.
“(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 402 may not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part, of the absence of the minor child from the home for the period specified in or provided for under subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.
“(11) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—If a State to which a grant is made under section 402 uses any part of the grant to provide assistance for any individual who is receiving a payment under a State plan for old-age assistance approved under section 2, a State program funded under part B that provides cash payments for foster care, or the supplemental security income program under title XVI, then the State may not disregard the payment in determining the amount of assistance to be provided to the family of which the individual is a member under the State program funded under this part.

“SEC. 408. PENALTIES.

“(a) IN GENERAL.—Subject to subsections (b), (c), and (d):
“(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—
“(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 402 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section
402(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 6 months after the end of a fiscal year, submitted the report required by section 410 for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(3) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 402 for a fiscal year has failed to comply with section 406(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

"(4) FOR FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from
the Federal Loan Fund for State Welfare Programs established under section 405 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 402(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary may not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 402(a)(1) for fiscal year 1996, 1997, 1998, 1999, or 2000 by the amount (if any) by which State expenditures under the State program funded under this part for the then immediately preceding fiscal year is less than the applicable percentage of historic State expenditures.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) STATE EXPENDITURES UNDER THE STATE PROGRAM FUNDED UNDER THIS PART.—

"(I) IN GENERAL.—The term 'State expenditures under the State program funded under this part' means, with respect to a State and a fiscal year, the sum of the expenditures by the State under the program for the fiscal year for—

"(aa) cash assistance;

"(bb) child care assistance;

"(cc) education, job training, and work;

"(dd) administrative costs; and

"(ee) any other use of funds allowable under section 403(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include funding supplanted by transfers from other State and local programs.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(I) for fiscal year 1996, 75 percent; and

"(II) for fiscal years 1997, 1998, 1999, and 2000, 75 percent reduced (if appropriate) in accordance with subparagraph (C)(iii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State, the lesser of—

"(I) the expenditures by the State under parts A and F of this title (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant for the immediately preceding fiscal year; bears to

"(bb) the total amount of Federal payments to the State under section 403 (as in effect during fiscal year 1994) for fiscal year 1994.
"(iv) Expenditures by the State.—The term 'expenditures by the State' does not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX or the MediGrant program under title XXI, or any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under title I.

"(C) Applicable Percentage Reduced for States with Best or Most Improved Performance in Certain Areas.—

"(i) Scoring of State Performance.—Beginning with fiscal year 1997, the Secretary shall assign to each State a score that represents the performance of the State for the fiscal year in each category described in clause (ii).

"(ii) Categories.—The categories described in this clause are the following:

"(I) Increasing the number of families that received assistance under a State program funded under this part in the fiscal year, and that, during the fiscal year, become ineligible for such assistance as a result of unsubsidized employment.

"(II) Reducing the percentage of families that, within 18 months after becoming ineligible for assistance under the State program funded under this part, become eligible for such assistance.

"(III) Increasing the amount earned by families that receive assistance under this part.

"(IV) Reducing the percentage of families in the State that receive assistance under the State program funded under this part.

"(iii) Reduction of Maintenance of Effort Threshold.—

"(I) Reduction for States with 5 Greatest Scores in Each Category of Performance.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points, with respect to each category described in clause (ii) for which the score assigned to the State under clause (i) for the fiscal year is 1 of the 5 highest scores so assigned to States.

"(II) Reduction for States with 5 Greatest Improvement in Scores in Each Category of Performance.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points for a State for a fiscal year, with respect to each category described in clause (ii) for which the difference between the score assigned to the State under clause (i) for the fiscal year and the score so assigned to the State for the immediately preceding fiscal year is 1 of the 5 greatest such differences.

"(III) Limitation on Reduction.—The applicable percentage for a State for a fiscal year
may not be reduced by more than 8 percentage points pursuant to this clause.

"(8) PENALTIES FOR SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall, subject to paragraph (2), reduce the grant payable to the State under section 402(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter throughout which the program is found not to be in substantial compliance with such requirements by—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

"(9) FOR FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 402(a)(1) for a fiscal year is reduced by reason of any of the preceding paragraphs of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the sum of—

"(A) the applicable percentage of the historic State expenditures; and

"(B) 105 percent of the total amount of such reductions under such preceding paragraphs.

"(b) REASONABLE CAUSE EXCEPTION.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(c) CORRECTIVE COMPLIANCE PLAN.—

"(1) IN GENERAL.—

"(A) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under subsection (a), notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State
will correct any such violations and how the State will
insure continuing compliance with the requirements of this
part.

"(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLI-
ANCE PLAN.—Any State notified under subparagraph (A)
shall have 60 days in which to submit to the Federal
Government a corrective compliance plan to correct any
violations described in subparagraph (A).

"(C) ACCEPTANCE OF PLAN.—The Federal Government
shall have 60 days to accept or reject the State's corrective
compliance plan and may consult with the State during
this period to modify the plan. If the Federal Government
does not accept or reject the corrective compliance plan
during the period, the corrective compliance plan shall
be deemed to be accepted.

"(2) FAILURE TO CORRECT.—If a corrective compliance plan
is accepted by the Federal Government, no penalty shall be
imposed with respect to a violation described in paragraph
(1) if the State corrects the violation pursuant to the plan.
If a State has not corrected the violation in a timely manner
under the plan, some or all of the penalty shall be assessed.

"(d) LIMITATION ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—In imposing the penalties described in
subsection (a), the Secretary shall not reduce any quarterly
payment to a State by more than 25 percent.

"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the
extent that paragraph (1) prevents the Secretary from recover-
ing during a fiscal year the full amount of all penalties imposed
on a State under subsection (a) for a prior fiscal year, the
Secretary shall apply any remaining amount of such penalties
to the grant payable to the State under section 402(a)(1) for
the immediately succeeding fiscal year.

"SEC. 409. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—Within 5 days after the date any adverse
decision is made or action is taken under this part with respect
to a State, the Secretary shall notify the chief executive officer
of the State of the adverse decision or action, including any decision
with respect to the State plan submitted under section 401 or
the imposition of a penalty under section 408.

"(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION—

"(1) IN GENERAL.—Within 60 days after the date a State
receives notice under this section of an adverse decision, the
State may appeal the decision, in whole or in part, to the
Departmental Appeals Board established in the Department
of Health and Human Services (in this section referred to
as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall consider a
State's appeal on the basis of such documentation as the State
may submit and as the Board may require to support the
final decision of the Board. In deciding whether to uphold
an adverse decision or any portion of such a decision, the
Board shall conduct a thorough review of the issues and take
into account all relevant evidence. The Board shall make a
final determination with respect to an appeal filed under this
paragraph not less than 60 days after the date the appeal
is filed.
"(c) **Judicial Review of Adverse Decision.**—

"(1) In General.—Within 90 days after the date of a final decision by the Board with respect to an adverse decision regarding a State under this section, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

(B) the United States District Court for the District of Columbia.

"(2) Procedural Rules.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

**SEC. 410. DATA COLLECTION AND REPORTING.**

"(a) General Reporting Requirement.—Beginning July 1, 1996, each State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following information on the families receiving assistance under the State program funded under this part:

"(1) The county of residence of the family.

"(2) Whether a child receiving such assistance or an adult in the family is disabled.

"(3) The ages of the members of such families.

"(4) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

"(5) The employment status and earnings of the employed adult in the family.

"(6) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

"(7) The educational status of each adult in the family.

"(8) The educational status of each child in the family.

"(9) Whether the family received subsidized housing, assistance under the State MediGrant plan approved under title XXI, food stamps, or subsidized child care, and if the latter 2, the amount received.

"(10) The number of months that the family has received each type of assistance under the program.

"(11) If the adults participated in, and the number of hours per week of participation in, the following activities:

(A) Education.

(B) Subsidized private sector employment.

(C) Unsubsidized employment.

(D) Public sector employment, work experience, or community service.

(E) Job search.

(F) Job skills training or on-the-job training.

(G) Vocational education.

"(12) Information necessary to calculate participation rates under section 406.
"(13) The type and amount of assistance received under
the program, including the amount of and reason for any reduc-
tion of assistance (including sanctions).

"(14) From a sample of closed cases, whether the family
left the program, and if so, whether the family left due to—
(A) employment;
(B) marriage;
(C) the prohibition set forth in section 407(a)(8);
(D) sanction; or
(E) State policy.

"(15) Any amount of unearned income received by any
member of the family.

"(16) The citizenship of the members of the family.

"(b) USE OF ESTIMATES.—

"(1) AUTHORITY.—A State may comply with subsection (a)
by submitting an estimate which is obtained through the use
of scientifically acceptable sampling methods approved by the
Secretary.

"(2) SAMPLING AND OTHER METHODS—The Secretary shall
provide the States with such case sampling plans and data
collection procedures as the Secretary deems necessary to
produce statistically valid estimates of the performance of State
programs funded under this part. The Secretary may develop
and implement procedures for verifying the quality of data
submitted by the States.

"(c) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRA-
TIVE COSTS AND OVERHEAD.—The report required by subsection
(a) for a fiscal quarter shall include a statement of the percentage
of the funds paid to the State under this part for the quarter
that are used to cover administrative costs or overhead.

"(d) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY
FAMILIES.—The report required by subsection (a) for a fiscal quarter
shall include a statement of the total amount expended by the
State during the quarter on programs for needy families.

"(e) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN
WORK ACTIVITIES.—The report required by subsection (a) for a fiscal quarter
shall include the number of noncustodial parents in the State
who participated in work activities (as defined in
section 406(d)) during the quarter.

"(f) REPORT ON TRANSITIONAL SERVICES.—The report required
by subsection (a) for a fiscal quarter shall include the total amount
expended by the State during the quarter to provide transitional
services to a family that has ceased to receive assistance under
this part because of employment, along with a description of such
services.

"(g) REPORT TO CONGRESS.—Not later than 6 months after
the end of fiscal year 1997, and each fiscal year thereafter, the
Secretary shall transmit to the Congress a report describing—
"(1) whether the States are meeting—
(A) the participation rates described in section 406(a); and

"(B) the objectives of—
(i) increasing employment and earnings of needy
families, and child support collections; and
(ii) decreasing out-of-wedlock pregnancies and
child poverty;
"(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

“(3) the characteristics of each State program funded under this part; and

“(4) the trends in employment and earnings of needy families with minor children living at home.

"SEC. 411. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

“(a) GRANTS FOR INDIAN TRIBES.—

“(I) TRIBAL FAMILY ASSISTANCE GRANT.—

“(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 402(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

“(B) AMOUNT DETERMINED.—

“(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State or States under parts A and F of this title (as so in effect) for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C).

“(ii) USE OF STATE SUBMITTED DATA.—

“(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

“(II) DISAGREEMENT WITH DETERMINATION.—

If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

“(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

“(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

“(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during such fiscal year).
"(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

"(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and


"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

"(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 406(d).

"(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.
"(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(f) PENALTIES.—

"(1) Subsections (a)(1), (a)(6), and (b) of section 408, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

"(2) Section 408(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting 'meet minimum work participation requirements established under section 411(c)' for 'comply with section 406(a)'.

"(g) DATA COLLECTION AND REPORTING.—Section 410 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), a tribal organization in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with the requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and the tribal organizations.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 412. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

"(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 406.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WEL-BEING.—

"(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any
research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 402 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 402 based on the following ranking factors:

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) for the most recent fiscal year for which information is available and such State's ratio determined for the preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—

"(1) the State submits a proposal to the Secretary for such evaluation,
“(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

“(3) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.

“(g) FUNDING OF STUDIES AND DEMONSTRATIONS.—

“(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each fiscal year specified in section 402(a)(1) for the purpose of paying—

“(A) the cost of conducting the research described in subsection (a);

“(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

“(C) the Federal share of any State-initiated study approved under subsection (f); and

“(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

“(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

“(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

“(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

“SEC. 413. STUDY BY THE CENSUS BUREAU.

“(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by subtitle A of the Personal Responsibility and Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low-income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

“(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for payment to the Bureau of the Census to carry out subsection (a).

“SEC. 414. WAIVERS.

“(a) CONTINUATION OF WAIVERS—

“(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part is in effect or approved by the Secretary as of October 1, 1995, the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 shall not apply with respect to the State before the expiration (deter-
mined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

"(2) FINANCING LIMITATION. — Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment described for such State for such fiscal year under section 402, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER. —

"(1) IN GENERAL. — A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT. — A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of such waiver.

"(3) HOLD HARMLESS PROVISION. —

"(A) IN GENERAL. — Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

"(B) DATE DESCRIBED. — The date described in this subparagraph is the later of—

"(i) January 1, 1996; or

"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS. — The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS. — A State may elect to continue one or more individual waivers described in subsection (a)(1).

"SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

"SEC. 416. LIMITATION ON FEDERAL AUTHORITY.

No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

"SEC. 417. DEFINITIONS.

"As used in this part:

"(1) ADULT. — The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD. — The term 'minor child' means an individual who—
“(A) has not attained 18 years of age; or
(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

“(3) FISCAL YEAR.—The term ‘fiscal year’ means any 12-month period ending on September 30 of a calendar year.

“(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the terms ‘Indian’, ‘Indian tribe’, and ‘tribal organization’ have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—
The term ‘Indian tribe’ means, with respect to the State of Alaska, only the following Alaska Native regional nonprofit corporations:

(i) Arctic Slope Native Association.
(ii) Kawerak, Inc.
(iii) Maniilaq Association.
(iv) Association of Village Council Presidents.
(v) Tanana Chiefs Conference.
(vi) Cook Inlet Tribal Council.
(vii) Bristol Bay Native Association.
(viii) Aleutian and Pribilof Island Association.
(ix) Chugachmuit.
(x) Tlingit Haida Central Council.
(xi) Kodiak Area Native Association.
(xii) Copper River Native Association.
(xiii) Metlakatla Indian Tribe.

“(5) STATE.—Except as otherwise specifically provided, the term ‘State’ includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.”.

SEC. 12102. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.
SEC. 12103. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—
(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and
(B) by striking "A or D of title IV of this Act" and inserting "D of such title".
(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".

(b) AMENDMENTS TO PART D OF TITLE IV.—
(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".
(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—
(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";
(B) by striking "such aid" and inserting "such assistance"; and
(C) by striking "under section 402(a)(26) or 471(a)(17)" and inserting "pursuant to section 408(a)(4) or under section 471(a)(17)".
(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—
(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and
(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".
(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".
(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".
(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State’s plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A or aid is being paid under the State’s plan approved under part E".
(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State’s plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A or aid was being paid under the State’s plan approved under part E".
(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—
(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";
(B) by inserting "by the State agency administering the State plan approved under this part" after "found"; and
(C) by striking "under section 402(a)(26)" and inserting "with the State in establishing paternity"

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".

(11) Section 454(5)(A) (42 U.S.C. 654(5)(A)) is amended—
(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)"; and
(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A," and inserting a comma.

(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".

(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "aid under plans approved" and inserting "assistance under State programs funded".

(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(16) Section 469(a) (42 U.S.C. 669(a)) is amended—
(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and
(B) by striking "such aid" and inserting "such assistance".

c) Repeal of Part F of Title IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

d) Amendment to Title X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

e) Amendments to Title XI.—
(1) Section 1108 (42 U.S.C. 1308) is amended to read as follows:

"SEC. 1108. LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, and under parts A and B of title IV for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) DEFINITIONS.—As used in this section:
"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (e).

"(3) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) $103,538,000 with respect to Puerto Rico;

"(B) $4,812,000 with respect to Guam;

"(C) $3,677,397 with respect to the Virgin Islands; and

"(D) $1,122,095 with respect to American Samoa.

"(4) DISCRETIONARY CEILING AMOUNT.—The term 'discretionary ceiling amount' means, with respect to a territory, the dollar amount specified in subsection (c)(2) with respect to the territory.

"(c) DISCRETIONARY GRANTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (2) for the fiscal year for payment to the territory.

"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—

"(A) $7,951,000 for payment to Puerto Rico;

"(B) $345,000 for payment to Guam;

"(C) $275,000 for payment to the Virgin Islands; and

"(D) $190,000 for payment to American Samoa.

"(d) AUTHORITY TO TRANSFER FUNDS AMONG PROGRAMS.—Notwithstanding any other provision of this Act, any territory to which an amount is paid under any provision of law specified in subsection (a) may use part or all of the amount to carry out any program operated by the territory, or funded, under any other such provision of law.

"(e) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1)."

(2) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(3) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";
(ii) by striking "403, ";
(iii) by striking the period at the end and inserting ", and"; and
(iv) by adding at the end the following new subparagraph:
"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part."; and

(B) in subsection (c)(3), by striking "under the program of aid to families with dependent children" and inserting "part A of such title".

(4) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404, ".

(5) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a), ";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV."

(6) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a), ".

(7) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(8) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(9) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:
"(1) any State program funded under part A of title IV of this Act; "; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in":

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(f) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is
amended to read as follows: "(A) a State program funded under part A of title IV.".

SEC. 12104. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";

(2) in subsection (d)—

(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded";

(2) in subsection (e)—

(A) by striking "aid to families with dependent children" and inserting "benefits under a State program funded"; and

(B) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(3) by adding at the end the following new subsection:

"(i) ELIGIBILITY UNDER OTHER LAW.—Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiv-
(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995;"

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through “(ii) any other” and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household” and inserting "(b) A household”; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded": and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995": and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized” and inserting "a family (under the State program funded”: and

(II) by striking “, in a State” and all that follows through “9902(2)))” and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995”: and

(ii) in subparagraph (B), by striking "aid to families with dependent children” and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq)"
that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".


(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

SEC. 12105. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94—566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act, shall be considered to constitute expenses incurred in the administration of such State plan.'.

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating
to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking “aid to families with dependent children under a State plan approved” and inserting “assistance under a State program funded”; and

(2) in subsection (c), by striking “aid to families with dependent children in the State under a State plan approved” and inserting “assistance in the State under a State program funded”.

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking “Aid to Families with Dependent Children”; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking “aid to families with dependent children under a State plan approved” and inserting “assistance under a State program funded”.

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking “the program for aid to dependent children” and inserting “the State program funded”; and

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking “the program for aid to families with dependent children” and inserting “the State program funded”; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking “the program for aid to families with dependent children” and inserting “the State program funded”.

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking “Aid to Families with Dependent Children Program” and inserting “State program funded under part A of title IV of the Social Security Act”; and

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking “the program of aid to families with dependent children under a State plan approved under” and inserting “a State program funded under part A of”; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(x), by striking “Aid to Families with Dependent Children benefits” and inserting “assistance under a State program funded under part A of title IV of the Social Security Act”; and

(B) in subparagraph (B)(viii), by striking “Aid to Families with Dependent Children” and inserting “assistance under the State program funded under part A of title IV of the Social Security Act”.

(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: “Provided further, That general assistance payments made by the Bureau of Indian Affairs shall be made—

“(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

“(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act.”
except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.

(i) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)";

and

(5) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—


(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act, ";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act";

and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E) by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking " including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "such as the JOBS program" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";
(8) in section 253 (29 U.S.C. 1632)—
   (A) in subsection (b)(2), by repealing subparagraph (C); and
   (B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;
(9) in section 264 (29 U.S.C. 1644)—
   (A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and
   (B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;
(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:
"(6) the portion of title IV of the Social Security Act relating to work activities;";
(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";
(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";
(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program;"
(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";
(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";
(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and
(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—
   (A) in clause (v), by striking the semicolon and inserting "; and"; and
   (B) by striking clause (vi).
(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:
"(iv) assistance under a State program funded under part A of title IV of the Social Security Act";
(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:
"(i) assistance under the State program funded under part A of title IV of the Social Security Act;";
(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—
   (1) by striking "(A)"; and
   (2) by striking subparagraphs (B) and (C).
(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—
   (1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75-0412-0-1-609);"
and inserting "Block grants to States for temporary assistance for needy families;"; and
(2) in section 256 (2 U.S.C. 906)—
(A) by striking subsection (k); and
(B) by redesignating subsection (l) as subsection (k).
(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—
(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";
(2) in section 245A(h) (8 U.S.C. 1255a(h))—
(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and
(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and
(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".
(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".
(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.
(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:
"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;"

SEC. 12106. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.
(b) PENALTIES.—
(1) IN GENERAL.—Paragraphs (2) through (7) and paragraph (9) of section 408(a) of the Social Security Act (as added by section 12101 of this Act) shall apply with respect to fiscal years beginning on or after October 1, 1996.
(2) MISUSE OF FUNDS.—Paragraphs (1) and (8) of section 408(a) of the Social Security Act (as added by section 12101 of this Act, shall apply with respect to fiscal years beginning on or after October 1, 1995.
(c) TRANSITION RULES.—
(1) STATE OPTION TO CONTINUE AFDC PROGRAM.—
(A) 9-MONTH EXTENSION.—A State may elect to continue the State AFDC program until June 30, 1996.
(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE AFDC PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under any State AFDC program on or after the date of the enactment of this Act.
(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—
(i) UNDER AFDC PROGRAM.—If a State elects to continue the State AFDC program pursuant to
subparagraph (A), the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(I) the State family assistance grant (as defined in section 402(a)(1)(B) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act)); minus

(II) any obligations of the Federal Government to the State under such part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 402(a)(1) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act), the total obligations of the Federal Government to the State under such section 402(a)(1) for fiscal year 1996 after the termination of the State AFDC program shall not exceed an amount equal to—

(I) the amount described in clause (i)(I) of this subparagraph; minus

(II) any obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State on or after October 1, 1995.

(D) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 401(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reductions under subparagraph (C)(ii) of this paragraph (including the formula for computing the amount of the reduction).

(E) STATE AFDC PROGRAM DEFINED.—As used in this paragraph, the term “State AFDC program” means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended
in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997.

Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the closeout of programs, and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this subtitle, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 415 of the Social Security Act (as in effect pursuant to the amendment made by section 12101 of this Act).

(d) SUNSET.—The amendment made by section 12101 shall be effective only during the 6-year period beginning on October 1, 1995.
Subtitle B—Supplemental Security Income

Sec. 12200. Reference to social security act.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

Sec. 12201. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.

Sec. 12202. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.

Sec. 12203. Denial of SSI benefits for fugitive felons and probation and parole violators.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

Sec. 12211. Definition and eligibility rules.

Sec. 12212. Eligibility redeterminations and continuing disability reviews.

Sec. 12213. Additional accountability requirements.

Sec. 12214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.

Sec. 12215. Regulations.

Subtitle B—Supplemental Security Income

SEC. 12200. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, where ever in this subtitle 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.

CHAPTER 1—ELIGIBILITY RESTRICTIONS

SEC. 12201. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled."

(b) REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition that prevents the individual from managing such benefits."
(2) Section 1631(a)(2)(B)(vii) (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years," or " and inserting "described in subparagraph (A)(ii)(II)".

(4) Section 1631(a)(2)(D)(ii)(II) (42 U.S.C. 1383(a)(2)(D)(ii)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(c) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"SEC. 1636. In the case of any eligible individual whose benefits under this title by reason of disability are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x—21 et seq.)."

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "to—" and all that follows through "in cases in which" and inserting "to individuals who are entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, in cases in which";

(B) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(C) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x—33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x—33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection,
activities relating to the treatment of the abuse of alcohol and other drugs.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by this section, such amendments shall apply with respect to the benefits of such individual, including such individual's treatment (if any) provided pursuant to such title as in effect on the day before the date of such enactment, for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this title, may reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than January 1, 1997, the Commissioner of Social Security shall complete the eligibility redetermination of each individual who reapplies for benefits under clause (i) pursuant to the procedures of title XVI of such Act.

(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE AND TREATMENT REFERRAL REQUIREMENTS.—The amendments made by subsections (b) and (c) shall also apply—

(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act, on and after the date of such individual's first continuing disability review occurring after such date of enactment, and

(B) in the case of any individual who receives supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.

SEC. 12202. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) IN GENERAL.—Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:
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“(5) An individual shall not be considered an eligible individual for the purposes of this title during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12203. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1), is amended by inserting after paragraph (2) the following new paragraph:

“(3) A person shall not be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

“(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

“(B) violating a condition of probation or parole imposed under Federal or State law.”.

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 12201(d)(1) and subsection (a), is amended by inserting after paragraph (3) the following new paragraph:

“(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient and notifies the Commissioner that—

“(A) the recipient—

“(i) is described in subparagraph (A) or (B) of paragraph (3); or

“(ii) has information that is necessary for the officer to conduct the officer's official duties; and

“(B) the location or apprehension of the recipient is within the officer's official duties.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

SEC. 12211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 7251(a), is amended—
(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";
(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";
(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;
(4) by inserting after subparagraph (B) the following new subparagraph:
"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Notwithstanding the preceding sentence, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and
(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—
(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavioral function.
(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—
(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as subclauses (aa) and (bb), respectively;
(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;
(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and by moving their left hand margin 2 ems to the right;
(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following:
"(A) in the case of an individual who is age 18 or older—";
(5) at the end of subparagraph (A)(iii) (as redesignated by paragraphs (3) and (4)), by striking the period and inserting "; or";
(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:
"(B) in the case of an individual who is under the age of 18—

"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked or severe functional limitations; or."

(7) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and

(8) in the first sentence following subparagraph (C) (as redesignated by paragraph (7)), by—

(A) inserting "(i)" before "to restore"; and

(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.

(d) AMOUNT OF BENEFITS.—Section 1611(b) (42 U.S.C. 1382(b)) is amended by adding at the end the following new paragraph:

"(3)(i) Except with respect to individuals described in clause (ii), the benefit under this title for an individual described in section 1614(a)(3)(C) shall be payable at a rate equal to 75 percent of the rate otherwise determined under this subsection.

"(ii) An individual is described in this clause if such individual is described in section 1614(a)(3)(C), and—

"(I) in the case of such an individual under the age of 6, such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the home; or

"(II) in the case of such an individual who has attained the age of 6, such individual requires personal care assistance with—

"(aa) at least 2 activities of daily living;

"(bb) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others; or

"(cc) the administration of medical treatment; and

who without such assistance would require full-time or part-time specialized care outside the home.

"(iii)(I) For purposes of clause (ii), the term 'specialized care' means medical care beyond routine administration of medication.

"(II) For purposes of clause (ii)(II)—

"(aa) the term 'personal care assistance' means at least hands-on and stand-by assistance, supervision, or cueing; and
“(bb) the term ‘activities of daily living’ means eating, toileting, dressing, bathing, and mobility.”.

(e) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) IN GENERAL.—The provisions of, and amendments made by, subsections (a), (b), and (c) shall apply to applicants for benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(B) ELIGIBILITY RULES.—The amendments made by subsection (d) shall apply to—

(i) applicants for benefits under title XVI of the Social Security Act for months beginning on or after January 1, 1997; and

(ii) with respect to continuing disability reviews of eligibility for benefits under such title occurring on or after such date.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, and amendments made by, subsections (a), (b), and (c).

With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a), (b), and (c), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REGULATIONS.—The Commissioner of Social Security shall submit for review to the committees of jurisdiction in
SEC. 12212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 12211(a)(3), is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, at the option of the Commissioner, which is unlikely to improve).

(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into
consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee."

(b) Disability Eligibility Redeterminations Required for SSI Recipients Who Attain 18 Years of Age.—

(1) In General.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period."


(c) Continuing Disability Review Required for Low Birth Weight Babies.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combina-
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tion of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) IN GENERAL.—Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:

"(c) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—(1)(A)(i) If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

(ii) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual's resources for less than fair market value occurs.

(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual's resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

(iv) The number of months of ineligibility under this clause for an individual shall be equal to—

(I) the total, cumulative uncompensated value of all the individual's resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by

(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.

(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—

(i) the individual intended to dispose of the resources at fair market value;

(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;

(iii) all resources transferred for less than fair market value have been returned to the individual; or

(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by such individual when any action
is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

"(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).

(ii) In the case of a trust established by an individual (within the meaning of paragraph (2)(A) of subsection (e)), if from such portion of the trust (if any) that is considered a resource available to the individual pursuant to paragraph (3) of such subsection (or would be so considered but for the application of paragraph (2) of such subsection) or the residue of such portion upon the termination of the trust—

"(I) there is made a payment other than to or for the benefit of the individual, or

"(II) no payment could under any circumstance be made to the individual,

then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.

"(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

"(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan under title XXI (as provided in subparagraph (B)); and

"(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).

"(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XXI.

"(3) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust; and

"(B) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–56."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to transfers of resources for less than fair market value that occur at least 90 days after the date of the enactment of this Act.

(b) TREATMENT OF ASSETS HELD IN TRUST.—
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(1) TREATMENT AS RESOURCE.—Section 1613 (42 U.S.C. 1382) is amended by adding at the end the following new subsection:

"TRUSTS"

"(e)(1) In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.

"(B) In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(C) This subsection shall apply without regard to—

"(i) the purposes for which the trust is established;
"(ii) whether the trustees have or exercise any discretion under the trust;
"(iii) any restrictions on when or whether distributions may be made from the trust; or
"(iv) any restrictions on the use of distributions from the trust.

"(3)(A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.

"(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.

"(5) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

"(B) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);

"(C) the term 'asset' includes any income or resource of the individual, including—

"(i) any income otherwise excluded by section 1612(b);
"(ii) any resource otherwise excluded by this section; and

"(iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—

"(I) such individual;
"(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or
“(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and

“(D) the term ‘benefits under this title’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.”.

(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) by striking “and” at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting “; and”;

(C) by adding at the end the following new subparagraph:

“(C) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f)) established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies): except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.’’.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1996, and shall apply to trusts established on or after such date.

(c) REQUIREMENT TO ESTABLISH ACCOUNT.—

(1) IN GENERAL.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E) the following new subparagraph:

“(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

“(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

“(aa) 6, and

“(bb) the maximum monthly benefit payable under this title to an eligible individual.

“(ii)(I) A representative payee may use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

“(II) An allowable expense described in this subclause is an expense for—

“(aa) education or job skills training;

“(bb) personal needs assistance;
“(cc) special equipment;
“(dd) housing modification;
“(ee) medical treatment;
“(ff) therapy or rehabilitation; or
“(gg) any other item or service that the Commissioner
determines to be appropriate;

provided that such expense benefits such individual and, in the
case of an expense described in division (cc), (dd), (ff), or (gg),
is related to the impairment (or combination of impairments) of
such individual.

“(III) The use of funds from an account established under
clause (i) in any manner not authorized by this clause—

“(aa) by a representative payee shall constitute misuse
of benefits for all purposes of this paragraph, and any represent-
ative payee who knowingly misuses benefits from such an
account shall be liable to the Commissioner in an amount
equal to the total amount of such misused benefits; and

“(bb) by an eligible individual who is his or her own rep-
resentative payee shall be considered an overpayment subject
to recovery under subsection (b).

“(IV) This clause shall continue to apply to funds in the account
after the child has reached age 18, regardless of whether benefits
are paid directly to the beneficiary or through a representative
payee.

“(iii) The representative payee may deposit into the account
established pursuant to clause (i)—

“(I) past-due benefits payable to the eligible individual
in an amount less than that specified in clause (i)(II), and
“(II) any other funds representing an underpayment under
this title to such individual, provided that the amount of such
underpayment is equal to or exceeds the maximum monthly
benefit payable under this title to an eligible individual.

“(iv) The Commissioner of Social Security shall establish a
system for accountability monitoring whereby such representative
payee shall report, at such time and in such manner as the Commis-
sioner shall require, on activity respecting funds in the account
established pursuant to clause (i).”.

(2) EXCLUSION FROM RESOURCES.—Section 1613(a) (42
U.S.C. 1382b(a)) is amended—

(A) in paragraph (9), by striking “; and” and inserting
a semicolon;
(B) in the first paragraph (10), by striking the period
and inserting a semicolon;
(C) by redesignating the second paragraph (10) as para-
graph (11), and by striking the period and inserting “; and”; and
(D) by adding at the end the following:

“(12) the assets and accrued interest or other earnings
of any account established and maintained in accordance with
section 1631(a)(2)(F).”.

(3) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C.
1382a(b)) is amended—

(A) by striking “and” at the end of paragraph (19);
(B) by striking the period at the end of paragraph
(20) and inserting “; and”; and
(C) by adding at the end the following new paragraph:
"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F)."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 12214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking "title XIX, or" and inserting "title XIX,; and

(2) by inserting "or, in the case of an eligible individual under the age of 18 receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 12215. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by sections 12211, 12212, 12213, and 12214.

Subtitle C—Child Support

SEC. 12300. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this subtitle 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.

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

SEC. 12301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance and adoption assistance are provided under the
State program funded under part B of this title, or
(III) medical assistance is provided under the State
plan approved under title XXI, unless the State agency
administering the plan determines (in accordance with
paragraph (29)) that it is against the best interests
of the child to do so; and
(ii) any other child, if an individual applies for
such services with respect to the child; and
(B) enforce any support obligation established with
respect to—
(i) a child with respect to whom the State provides
services under the plan; or
(ii) the custodial parent of such a child.; and
(2) in paragraph (6)—
(A) by striking "provide that" and inserting "provide
that—"
(B) by striking subparagraph (A) and inserting the
following new subparagraph:
(A) services under the plan shall be made available
to residents of other States on the same terms as to resi-
dents of the State submitting the plan;
(C) in subparagraph (B), by inserting "on individuals
not receiving assistance under any State program funded
under part A" after "such services shall be imposed"
(D) in each of subparagraphs (B), (C), (D), and (E)—
(i) by indenting the subparagraph in the same
manner as, and aligning the left margin of the subpara-
graph with the left margin of, the matter inserted
by subparagraph (B) of this paragraph; and
(ii) by striking the final comma and inserting a
semicolon; and
(E) in subparagraph (E), by indenting each of clauses
(i) and (ii) 2 additional ems.
(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO
RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER
PART A.—Section 454 (42 U.S.C. 654) is amended—
(1) by striking "and" at the end of paragraph (23);
(2) by striking the period at the end of paragraph (24)
and inserting "; and"; and
(3) by adding after paragraph (24) the following new para-
graph:
(25) provide that if a family with respect to which services
are provided under the plan ceases to receive assistance under
the State program funded under part A, the State shall provide
appropriate notice to the family and continue to provide such
services, subject to the same conditions and on the same basis
as in the case of other individuals to whom services are fur-
nished under the plan, except that an application or other
request to continue services shall not be required of such a
family and paragraph (6)(B) shall not apply to the family.
(c) CONFORMING AMENDMENTS.—
(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking
"454(6)" and inserting "454(4)"
(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended
by striking "454(6)" each place it appears and inserting
"454(4)(A)(ii)".
(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 12302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) retain, or distribute to the family, the State share of the amount so collected; and

"(B) pay to the Federal Government the Federal share of the amount so collected.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT PAYMENTS.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

"(B) PAYMENTS OF ARREARAGES.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

"(i) DISTRIBUTION OF ARREARAGES THAT ACCRUED AFTER THE FAMILY CEASED TO RECEIVE ASSISTANCE.—

"(I) PRE-OCTOBER 1997.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued after the family ceased to receive assistance, and

"(bb) are collected before October 1, 1997.

"(II) POST-SEPTEMBER 1997.—With respect to amounts collected on or after October 1, 1997—

"(aa) IN GENERAL.—The State shall distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

"(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—To the extent that division (aa) does not apply
to the amount, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)(A)) of the amount so collected, to the extent necessary to reimburse amounts paid to the family as assistance by the State.

“(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

“(ii) DISTRIBUTION OF ARREARAGES THAT ACCRUED BEFORE THE FAMILY RECEIVED ASSISTANCE.—

“(I) PRE-OCTOBER 2000.—The provisions of this section (other than subsection (b)(1)) as in effect on the day before the date of the enactment of section 12302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

“(aa) accrued before the family received assistance, and

“(bb) are collected before October 1, 2000.

“(II) POST-SEPTEMBER 2000.—Unless based on the report required by paragraph (4), the Congress determines otherwise, with respect to amounts collected on or after October 1, 2000—

“(aa) IN GENERAL.—The State shall first distribute any amount collected (other than amounts described in clause (iv)) to the family to the extent necessary to satisfy any support arrears with respect to the family that accrued before the family received assistance from the State.

“(bb) REIMBURSEMENT OF GOVERNMENTS FOR ASSISTANCE PROVIDED TO THE FAMILY.—The State shall retain the State share of the amounts so collected in excess of those distributed pursuant to division (aa) and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, to the extent necessary to reimburse all or part of the amounts paid to the family as assistance by the State.

“(cc) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

“(iii) DISTRIBUTION OF ARREARAGES THAT ACCRUED WHILE THE FAMILY RECEIVED ASSISTANCE.—In the case of a family described in this subparagraph, the provisions of paragraph (I) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.
“(iv) AMOUNTS COLLECTED PURSUANT TO SECTION 464.—Notwithstanding any other provision of this section, any amount of support collected pursuant to section 464 shall be retained by the State to the extent necessary to reimburse amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.

“(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, the State shall treat any support arrearages collected as accruing in the following order:

“(I) to the period after the family ceased to receive assistance;

“(II) to the period before the family received assistance; and

“(III) to the period while the family was receiving assistance.

“(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

“(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary’s findings with respect to—

“(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

“(B) whether early implementation of a pre-assistance arrearage program by some States has been effective in moving people off of welfare and keeping them off of welfare;

“(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

“(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

“(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, shall remain assigned after such date.

“(c) DEFINITIONS.—As used in subsection (a):

“(1) ASSISTANCE.—The term ‘assistance from the State’ means—

“(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995); or
"(B) benefits under the State plan approved under part E of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995).

"(2) FEDERAL SHARE.—The term ‘Federal share’ means—

'(A) if the amounts collected and retained by the State (to the extent necessary to reimburse amounts paid to families as assistance by the State) are equal to or greater than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the highest Federal medical assistance percentage in effect for the State in fiscal year 1995 or any succeeding year of the amount so collected; or

'(B) if the amounts so collected and retained by the State are less than such amounts collected in fiscal year 1995 (reduced by amounts not retained by the State in fiscal year 1995 as a result of the application of subsection (b)(1) of this section as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the amounts so collected and retained less the State share in fiscal year 1995.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term ‘Federal medical assistance percentage’ means—

'(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

'(B) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any other State.

"(4) STATE SHARE.—The term ‘State share’ means 100 percent minus the Federal share.

"(d) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—When a family with respect to which services are provided under a State plan approved under this part ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of individuals to whom services are furnished under section 454, except that an application or other request to continue services shall not be required of such a family and section 454(6)(B) shall not apply to the family."

(b) CONFORMING AMENDMENT.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on October 1, 1996, or earlier at the State’s option.

SEC. 12303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 12301(b) of this Act, is amended—

(1) by striking “and” at the end of paragraph (24); and

(2) by striking the period at the end of paragraph (25) and inserting “; and”;

and
(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—LOCATE AND CASE TRACKING

SEC. 12311. STATE CASE REGISTRY.

Section 454A, as added by section 12344(a)(2) of this Act, is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts:
"(D) the birth date of any child for whom the order requires the provision of support; and
"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;
"(B) information obtained from comparison with Federal, State, or local sources of information;
"(C) information on support collections and distributions; and
"(D) any other relevant information.

"(6) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDIGRANT AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.”.

SEC. 12312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b) and 12303(a) of this Act, is amended—
(1) by striking "and" at the end of paragraph (25);
(2) by striking the period at the end of paragraph (26) and inserting "; and"; and
(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) monitor and enforce support collections through the unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.")."

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651—669), as amended by section 12344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;
“(3) to ensure prompt disbursement of the custodial parent’s share of any payment; and
“(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.
“(c) TIMING OF DISBURSEMENTS.—
“(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.
“(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.
“(d) BUSINESS DAY DEFINED.—As used in this section, the term ‘business day’ means a day on which State offices are open for regular business.’.
“(e) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 12344(a)(2) and as amended by section 12311 of this Act, is amended by adding at the end the following new subsection:
“(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—
“(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—
“(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—
“(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of notice of, and the income source subject to, such withholding; and
“(ii) using uniform formats prescribed by the Secretary;
“(B) ongoing monitoring to promptly identify failures to make timely payment of support; and
“(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.
“(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term ‘business day’ means a day on which State offices are open for regular business.’.
“(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 12313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a) and 12312(a) of this Act, is amended—
“(1) by striking “and” at the end of paragraph (26);
“(2) by striking the period at the end of paragraph (27) and inserting “; and”;

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A."

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—

(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

(B) STATES WITH NEW HIRE REPORTING IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of this section (other than subsection (1)) not later than October 1, 1997.

(2) DEFINITIONS.—As used in this section:

(A) EMPLOYEE.—The term 'employee'—

(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(B) EMPLOYER.—

(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1996 and includes any governmental entity and any labor organization.

(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(l)(3) of such Act of an agreement between the organization and the employer.

(b) EMPLOYER INFORMATION.—

(1) REPORTING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and Social Security number of the employee, and
the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made not later than 20 days after the date the employer hires the employee.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W-4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the Social Security numbers reported by employers pursuant to subsection (b) and the Social Security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the Social Security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and Social Security number of the employee to whom the Social Security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—
"(1) Transmission of Wage Withholding Notices to Employers.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).

"(2) Transmissions to the National Directory of New Hires.—

"(A) New Hire Information.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) Wage and Unemployment Compensation Information.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

"(3) Business Day Defined.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) Other Uses of New Hire Information.—

"(1) Location of Child Support Obligors.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) Verification of Eligibility for Certain Programs.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) Administration of Employment Security and Workers' Compensation.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.

"(c) Quarterly Wage Reporting.—Section 1137(a)(3) (42 U.S.C. 1320b-7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)"."
(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

“(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.
“(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.”

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking “subsection (a)(1)” and inserting “subsection (a)(1)(A)”.

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

“(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—

(i) that the withholding has commenced; and

(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).”.

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows “administered by” and inserting “the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.”.

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking “to the appropriate agency” and all that follows and inserting “to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall comply with the procedural rules relating to income withholding of the State in which the employee works, regardless of the State where the notice originates.”.

(ii) in clause (ii), by inserting “be in a standard format prescribed by the Secretary, and” after “shall”; and

(iii) by adding at the end the following new clause:

“(iii) As used in this subparagraph, the term ‘business day’ means a day on which State offices are open for regular business.”.
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(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.").

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 12315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 12316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child custody or visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed, including the individual’s social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual’s employer;

"(2) information on the individual’s wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.";

and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “social security” and all that follows through “absent parent” and inserting “information described in subsection (a)”;

and
(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26)."

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)."

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

"(h) FEDERAL CASE REGISTER OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section
454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

"(i) NATIONAL DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—
“(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

“(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

“(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

“(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

“(B) disclose information in such registries to such State agencies.

“(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

“(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

“(k) FEES.—

“(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

“(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

“(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

“(l) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from
comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission."

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;"

(B) Section 454(13) (42 U.S.C. 654(13)) is amended by inserting "and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan" before the semicolon.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:
‘(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

“(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

“(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

“(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

“(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

“(3) For purposes of this subsection—

“(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

“(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.”.

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) DISCLOSURE TO CERTAIN AGENTS.—The address and social security account number (or numbers) of an individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by any child support enforcement agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C).”

(B) CONFORMING AMENDMENTS.—
(i) Paragraph (3) of section 6103(a) of such Code is amended by striking "(l)(12)" and inserting "paragraph (6) or (12) of subsection (l)".

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

"(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations."

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking "subsection (l)(12)(B)" and inserting "paragraph (6)(A) or (12)(B) of subsection (l)".

SEC. 12317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 12315 of this Act, is amended by adding at the end the following new paragraph:

"(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants."

(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking "may require" and inserting "shall require";

(2) in clause (ii), by inserting after the 1st sentence the following: "In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party;"

(3) in clause (ii), by inserting "or marriage certificate" after "Such numbers shall not be recorded on the birth certificate".

(4) in clause (vi), by striking "may" and inserting "shall"; and

(5) by adding at the end the following new clauses:

"(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certifi-
cate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

"(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV."

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 12321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—

"(1) ENACTMENT AND USE.—In order to satisfy section 454(20)(A), on or after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

"(2) EMPLOYERS TO FOLLOW PROCEDURAL RULES OF STATE WHERE EMPLOYEE WORKS.—The State law enacted pursuant to paragraph (1) shall provide that an employer that receives an income withholding order or notice pursuant to section 501 of the Uniform Interstate Family Support Act follow the procedural rules that apply with respect to such order or notice under the laws of the State in which the obligor works.

SEC. 12322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child’s home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period."

(3) in subsection (c), by inserting "by a court of a State" before "is made";
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(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";
(5) in subsection (d)—
  (A) by inserting "individual" before "contestant"; and
  (B) by striking "subsection (e)" and inserting "subsections (e) and (f)";
(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";
(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;
(8) in subsection (e)(2)—
  (A) by inserting "individual" before "contestant" each place such term appears; and
  (B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";
(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;
(10) by inserting after subsection (e) the following new subsection:
    "(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:
      "(1) If only 1 court has issued a child support order, the order of that court must be recognized.
      "(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.
      "(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.
      "(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.
      "(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction."
(11) in subsection (g) (as so redesignated)—
  (A) by striking "PRIOR" and inserting "MODIFIED"; and
  (B) by striking "subsection (e)" and inserting "subsections (e) and (f)";
(12) in subsection (h) (as so redesignated)—
  (A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and
(B) in paragraph (3), by inserting "arrears under" after "enforce"; and
(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification."

SEC. 12323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315 and 12317(a) of this Act, is amended by adding at the end the following new paragraph:

"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and
"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the case-load of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 12324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"

(3) by adding at the end the following new paragraph:

"(11) not later than June 30, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—"
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“(A) collection of child support through income withholding;
“(B) imposition of liens; and
“(C) administrative subpoenas.”.

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking “and” at the end of subparagraph (C);
(2) by inserting “and” at the end of subparagraph (D); and
(3) by adding at the end the following new subparagraph:
“(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases.”.

SEC. 12325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 12314 of this Act, is amended—

(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: “Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations.”; and
(2) by inserting after subsection (b) the following new subsection:

“(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

“(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States:
“(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).
“(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.
“(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.
“(D) ACCESS TO CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):
“(I) Records of other State and local government agencies, including—
“(i) vital statistics (including records of marriage, birth, and divorce):
“(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

“(III) records concerning real and titled personal property;

“(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

“(V) employment security records;

“(VI) records of agencies administering public assistance programs;

“(VII) records of the motor vehicle department; and

“(VIII) corrections records.

“(ii) Certain records held by private entities, including—

“(I) customer records of public utilities and cable television companies; and

“(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).

“(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

“(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

“(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

“(i) intercepting or seizing periodic or lump-sum payments from—

“(II) a State or local agency, including unemployment compensation, workers’ compensation, and other benefits; and

“(II) judgments, settlements, and lotteries;

“(ii) attaching and seizing assets of the obligor held in financial institutions;

“(iii) attaching public and private retirement funds; and

“(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

“(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrear-
ages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and name and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support
order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively."

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 12344(a)(2) and as amended by sections 12311 and 12312(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c)."

CHAPTER 4—PATERNITY ESTABLISHMENT

SEC. 12331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

"(B) PROCEDURES CONCERNING GENETIC TESTING.—

"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before
(B) the costs (including attorney's fees) of the action.

(d) DEFINITIONS.—For purposes of this section—

(1) FINANCIAL INSTITUTION.—The term "financial institution" means—

(A) a depository institution, as defined in section 3(c)
    of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));
(B) an institution-affiliated party, as defined in section
    3(u) of such Act (12 U.S.C. 1813(v));
(C) any Federal credit union or State credit union,
as defined in section 101 of the Federal Credit Union
Act (12 U.S.C. 1752), including an institution-affiliated
party of such a credit union, as defined in section 206(r)
of such Act (12 U.S.C. 1786(r)); and
(D) any benefit association, insurance company, safe
deposit company, money-market mutual fund, or similar
entity authorized to do business in the State.

(2) FINANCIAL RECORD.—The term "financial record" has
the meaning given such term in section 1101 of the Right

(3) STATE CHILD SUPPORT ENFORCEMENT AGENCY.—The
term "State child support enforcement agency" means a State
agency which administers a State program for establishing
and enforcing child support obligations.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 12361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);
(2) by striking the period at the end of paragraph (4)
    and inserting "; and"
(3) by adding at the end the following new paragraph:
    "(5) no additional fee may be assessed for adjustments
to an amount previously certified pursuant to such section
    452(b) with respect to the same obligor."; and
(4) by striking "Secretary of Health, Education, and Welfare"
each place it appears and inserting "Secretary of Health
    and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section
shall become effective October 1, 1997.

SEC. 12362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section
459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding
any other provision of law (including section 207 of this Act and
section 5301 of title 38, United States Code), effective January
1, 1975, moneys (the entitlement to which is based upon remunera-
tion for employment) due from, or payable by, the United States
or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS.—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7):
“(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

“(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

‘(e) No Requirement to Vary Pay Cycles.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

“(f) Relief From Liability.—

“(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

“(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

“(g) Regulations.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

“(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

“(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

“(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

“(h) Moneys Subject to Process.—

“(1) In General.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

“(A) consist of—

“(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

“(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—
“(I) under the insurance system established by title II;
“(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents’ or survivors’ benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;
“(III) as compensation for death under any Federal program;
“(IV) under any Federal program established to provide black lung benefits; or
“(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death; and
“(iii) worker’s compensation benefits paid under Federal or State law; but
“(B) do not include any payment—
“(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or
“(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

“(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—
“(A) are owed by the individual to the United States;
“(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;
“(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);
“(D) are deducted as health insurance premiums;
“(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or
“(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

“(i) DEFINITIONS.—For purposes of this section—
“(I) UNITED STATES.—The term ‘United States’ includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the
United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

"(3) ALIMONY.—

"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any child support; or

"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and
"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments."

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (b)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa."

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))", before "which—";

(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 662(i)(2)))";

(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 662(i)(3)))".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF" before "SPOUSE OR"; and

(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".
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(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act."

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 12363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—
(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following new sentence:

"In the case of a spouse or former spouse who, pursuant to section 407(a)(4) of the Social Security Act (42 U.S.C. 607(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child..."
support arrearages set forth in that order as well as to amounts of child support that currently become due.

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 12364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:

"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

'(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

'(B) the Uniform Fraudulent Transfer Act of 1984;

or

'(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

'(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

'(A) seek to void such transfer; or

'(B) obtain a settlement in the best interests of the child support creditor.

SEC. 12365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.

(a) IN GENERAL.—Section 466(a) of the Social Security Act (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), and 12323 of this Act, is amended by adding at the end the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

'(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to seek a court order that requires the individual to—

'(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

'(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 406(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

'(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under
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State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C. 666(a)) is amended by striking “and (7)” and inserting “(7), and (15)”.

SEC. 12366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 12316 and 12345(b) of this Act, is amended by adding at the end the following new subsection:

“(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.”.

SEC. 12367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

“(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

“(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

“(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

“(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

“(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).”.

SEC. 12368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

“(4) LIENS.—Procedures under which—

“(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

“(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.”.
SEC. 12369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, and 12365 of this Act, is amended by adding at the end the following:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 12370. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

"(a) AUTHORITY FOR DECLARATIONS.—"

"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—"

"(A) the procedures established by the foreign nation regarding the establishment and enforcement of duties of support have been so changed, or the foreign nation's implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or"

"(B) continued operation of the declaration is not consistent with the purposes of this part.

"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—"

"(1) MANDATORY ELEMENTS.—Child support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—"

"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and"
“(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

“(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

“(C) An agency of the foreign country is designated as a Central Authority responsible for—

“(i) facilitating child support enforcement in cases involving residents of the foreign nation and residents of the United States; and

“(ii) ensuring compliance with the standards established pursuant to this subsection.

“(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

“(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate child support enforcement in cases involving residents of the United States and residents of foreign nations that are the subject of a declaration under this section, by activities including—

“(1) development of uniform forms and procedures for use in such cases;

“(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

“(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

“(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of child support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.”.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 12301(b), 12303(a), 12312(b), 12313(a), 12333, and 12343(b) of this Act, is amended—

“(1) by striking “and” at the end of paragraph (29);

“(2) by striking the period at the end of paragraph (30) and inserting “; and”;

“(3) by adding after paragraph (30) the following new paragraph:

“(31)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

“(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

“(C) provide that no applications will be required from, and no costs will be assessed for such services against, the
foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor)."

SEC. 12371. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, and 12369 of this Act, is amended by adding at the end the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—
"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—
"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and
"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).
"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.
"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—
"(i) for any disclosure of information to the State agency under subparagraph (A)(i);
"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or
"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).
"(D) DEFINITIONS.—For purposes of this paragraph—
"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any Federal or State commercial savings bank, including savings association or cooperative bank, Federal- or State-chartered credit union, benefit association, insurance company, safe deposit company, money-market mutual fund, or any similar entity authorized to do business in the State; and
"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account."
SEC. 12372. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, and 12371 of this Act, is amended by adding at the end the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parents of such child are receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parents of such child.".

CHAPTER 8—MEDICAL SUPPORT

SEC. 12376. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.


(1) by striking "issued by a court of competent jurisdiction";
(2) by striking the period at the end of clause (ii) and inserting a comma; and
(3) by adding, after and below clause (ii), the following: "if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.
(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and
(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 12377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 12315, 12317(a), 12323, 12365, 12369, 12371, and 12372 of this Act, is amended by adding at the end the following new paragraph:

"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child,
and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice."

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

SEC. 12381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651-669) is amended by adding at the end the following:

"SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or
"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1996 or 1997; or
"(B) $100,000 for any succeeding fiscal year.

"(d) No SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or non-profit private entities;"
"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.”.

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 12391. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—

(1) the date specified in this subtitle, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions, but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

Subtitle D—Restricting Welfare and Public Benefits for Aliens

CHAPTER 1—ELIGIBILITY FOR FEDERAL BENEFITS

SEC. 12401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined in section 12431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.
(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General’s sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and (C) are necessary for the protection of life or safety.

(5) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(c) FEDERAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle, the term “Federal public benefit” means a Federal public benefit providing direct spending for—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

SEC. 12402. LIMITED ELIGIBILITY OF CERTAIN QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) LIMITED ELIGIBILITY FOR SPECIFIED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 12431) is not eligible for any specified Federal program (as defined in paragraph (3)).
(2) EXCEPTIONS.—

(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) CERTAIN PERMANENT RESIDENT ALIENS.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, and (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter.

(C) VETERAN AND ACTIVE DUTY EXCEPTION.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) TRANSITION FOR ALIENS CURRENTLY RECEIVING BENEFITS.—Paragraph (1) shall apply to the eligibility of an alien for a program for months beginning on or after January 1, 1997, if, on the date of the enactment of this Act, the alien is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act.

(3) SPECIFIED FEDERAL PROGRAM DEFINED.—For purposes of this subtitle, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act.

(B) FOOD STAMPS.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) LIMITED ELIGIBILITY FOR DESIGNATED FEDERAL PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as provided in section 12403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 12431) for any designated Federal program (as defined in paragraph (3)).

(2) EXCEPTIONS.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.
(A) **Time-limited Exception for Refugees and Asylees.**—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien’s entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) **Certain Permanent Resident Aliens.**—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage to be a fully insured individual for old-age retirement benefits under title II of the Social Security Act, (II) did not receive any Federal means-tested public benefit (as defined in section 12403(c)) during any such quarter, and (III) at the time of application is otherwise eligible for such benefits.

(C) **Veteran and Active Duty Exception.**—An alien who—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) **Transition for Those Currently Receiving Benefits.**—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) **Designated Federal Program Defined.**—For purposes of this subtitle, the term “designated Federal program” means any of the following:

(A) **Temporary Assistance for Needy Families.**—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) **Social Services Block Grant.**—The program of block grants to States for social services under title XX of the Social Security Act.

(C) **Medicaid and Medicare.**—The program of medical assistance under title XIX and XXI of the Social Security Act.
SEC. 12403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is a qualified alien (as defined in section 12431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) EXCEPTIONS.—The limitation under subsection (a) shall not apply to the following aliens:

(1) EXCEPTION FOR REFUGEES AND ASYLLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage;

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle, the term "Federal means-tested public benefit" means a Federal public benefit providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) Such term does not include the following:

(A) Emergency medical services under title XIX or XXI of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(F) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf.
under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.


CHAPTER 2—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

SEC. 12421. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (c), in determining the eligibility and the amount of benefits of an alien for any means-tested public benefits program (as defined in subsection (e)) the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 12422) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) APPLICATION.—Subsection (a) shall apply with respect to an alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act.

(c) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following Federal public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part,
but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.


(d) REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.—Whenever an alien is required to reapply for benefits under any means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(e) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—The term "means-tested public benefits program" means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) APPLICATION.—

(1) If on the date of the enactment of this Act, a means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 12422. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any
means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.

"(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.
"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(6) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any State; and

"(D) is the person petitioning for the admission of the alien under section 204.

"(2) MEANS-TESTED PUBLIC BENEFITS PROGRAM DEFINED.—
The term 'means-tested public benefits program' means a program of Federal public benefits providing direct spending (including cash, medical, housing, and food assistance and social services) by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.”.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.”.

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.
(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.
(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.


SEC. 12423. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

"(6) Notwithstanding sections 427(a)(2)(C), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under section 213A of the Immigration and Nationality Act or by another individual who is a United States citizen."

CHAPTER 3—GENERAL PROVISIONS

SEC. 12431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, the terms used in this subtitle have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this subtitle, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,
(2) an alien who is granted asylum under section 208 of such Act,
(3) a refugee who is admitted to the United States under section 207 of such Act,
(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,
(5) an alien whose deportation is being withheld under section 243(h) of such Act, or
(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

SEC. 12432. REAPPLICATION FOR SSI BENEFITS.

(a) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the application of section 12402(a)(2)(D), the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(b) REAPPLICATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subsection (a) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.

(2) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under paragraph (1) pursuant to the procedures of such title XVI.

SEC. 12433. STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this subtitle may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this subtitle, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this subtitle may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This subtitle does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any person or circumstance shall not be affected thereby.
authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.


Subtitle G—Child Protection Block Grant Program and Foster Care and Adoption Assistance

SEC. 12701. ESTABLISHMENT OF PROGRAM.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking subpart 2 of part B and inserting the following:

"Subpart 2—Block Grants to States for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance

"SEC. 430. ELIGIBLE STATES.

"(a) IN GENERAL.—As used in this subpart, the term 'eligible State' means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

"(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the child protection goals of the program funded under this subpart, including the procedures to be used for—

"(A) receiving and assessing reports of child abuse or neglect;

"(B) investigating such reports;

"(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

"(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

"(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

"(F) protecting children in foster care;

"(G) promoting timely adoptions;

"(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards;

"(I) providing services to individuals, families, or communities, either directly or through referral, that are
aimed at preventing the occurrence of child abuse and neglect; and

"(J) establishing and responding to citizen review panels under section 434.

"(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

"(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

"(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

"(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

"(6) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.

"(7) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later than 2 years after the date of the enactment of this subpart, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

"(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

"(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.
"(10) Certification of state procedures to respond to reporting of medical neglect of disabled infants.—

"(A) In General.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(B) Withholding of Medically Indicated Treatment.—As used in subparagraph (A), the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating Physician's or physicians' reasonable medical judgment—

"(i) the infant is chronically and irreversibly comatose;

"(ii) the provision of such treatment would—

"(I) merely prolong dying;

"(II) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(III) otherwise be futile in terms of the survival of the infant; or

"(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"(11) Identification of child protection goals.—The quantitative goals of the State child protection program.

"(12) Certification of child protection standards.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

"(A) has completed an inventory of all children who, before the inventory, had been in foster care under the
responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

"(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

"(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

"(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

"(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

"(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

"(14) CERTIFICATION OF COOPERATIVE EFFORTS.—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this subpart.
"(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (10) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

"SEC. 431. GRANTS TO STATES FOR CHILD PROTECTION AND PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

"(a) FUNDING OF BLOCK GRANTS.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (c)(1) a grant in an amount equal to the State share of the child protection amount for the fiscal year.

"(b) MAINTENANCE PAYMENTS.—

"(1) IN GENERAL.—In addition to the grants described in subsection (a), each eligible State shall be entitled to receive from the Secretary for each quarter of each fiscal year specified in subsection (c)(1) an amount equal to the sum of—

"(A) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of enactment of this subpart) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this subpart for children in foster family homes or child-care institutions; plus

"(B) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this subpart pursuant to adoption assistance agreements.

"(2) ESTIMATES BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled to receive under paragraph (1) for such quarter, such estimates to be based on—

"(i) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with paragraph (1), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

"(ii) records showing the number of children in the State receiving assistance under this subpart; and

"(iii) such other information as the Secretary may find necessary.

"(B) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under subparagraph (A), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quarter and with respect to which adjustment has not already been made under this paragraph.
"(C) PRO RATA SHARE.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this subpart shall be considered an overpayment to be adjusted under this paragraph.

"(3) ALLOWANCE OR DISALLOWANCE OF CLAIM.—

"(A) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant to paragraph (2)(A), the Secretary shall allow, disallow, or defer such claim.

"(B) NOTICE.—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

"(C) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

"(i) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

"(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

"(I) upon completion of the review, if it is determined that the claim is not allowable; or

"(II) on the basis of findings of an audit or financial management review.

"(c) DEFINITIONS.—As used in this section:

"(1) CHILD PROTECTION AMOUNT.—The term 'child protection amount' means—

"(A) $1,936,000,000 for fiscal year 1996;

"(B) $1,942,000,000 for fiscal year 1997;

"(C) $2,063,000,000 for fiscal year 1998;

"(D) $2,167,000,000 for fiscal year 1999;

"(E) $2,297,000,000 for fiscal year 2000;

"(F) $2,432,000,000 for fiscal year 2001; and

"(G) $2,593,000,000 for fiscal year 2002.

"(2) STATE SHARE.—

"(A) IN GENERAL.—The term 'State share' means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

"(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term 'qualified child protection expenses' means, with respect to a State the greater of—

"(i) the total amount of—

"(I) 1/3 of the total obligations to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; and

"(II) 1/3 of the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal years 1992, 1993, and 1994; or

"(ii) the total amount of—

"(I) the total obligations to the State under the provisions of law specified in clauses (i), (ii), (iii), and (iv) of subparagraph (C) for fiscal years 1992, 1993, and 1994; and

"(II) the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal years 1992, 1993, and 1994; or
and (iii) of subparagraph (C) for fiscal year 1995; and

"(II) the total claims submitted by the State (without regard to disputed claims) under the provision of law specified in subparagraph (C)(iv) for fiscal year 1995.

"(C) PROVISIONS OF LAW.—The provisions of law specified in this subparagraph are the following (as in effect on the day before the date of enactment of this subpart):

"(i) Section 434 of this Act.
"(ii) Section 474(a)(4) of this Act.
"(iii) Section 474(a)(3) of this Act.

"(d) USE OF GRANT.—

"(1) IN GENERAL.—A State to which a grant is made under this section may use the grant in any manner that the State deems appropriate to accomplish the child protection goals of the State program funded under this subpart.

"(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.

"(3) RULE OF INTERPRETATION.—This subpart shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this subpart.

"(e) TIMING OF PAYMENTS.—The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.

"(f) PENALTIES.—

"(1) FOR USE OF GRANT IN VIOLATION OF THIS SUBPART.—

If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this subpart, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.

"(2) FOR FAILURE TO MAINTAIN EFFORT.—

"(A) IN GENERAL.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in subparagraph (B), to carry out the State program funded under this subpart is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1995 under subpart 2 of part B and part E of this title (as in effect on the day before the date of the enactment of this subpart), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.
“(B) Specification of Fiscal Years and Applicable Percentages.—The fiscal years and applicable percentages specified in this subparagraph are as follows:

“(i) For fiscal years 1996 and 1997, 100 percent.
“(ii) For fiscal years 1998 through 2002, 75 percent.

“(3) For Failure to Submit Required Report.—
“(A) In General.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 436(b) for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.
“(B) Rescission of Penalty.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

“(4) For Failure to Comply with Sampling Methods Requirements.—The Secretary may reduce by not more than 1 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a succeeding fiscal year if the Secretary determines that the State has not complied with the Secretary’s sampling methods requirements under section 436(c)(2) during the prior fiscal year.

“(5) State Funds to Replace Reductions in Grant.—
A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this subpart during the immediately succeeding fiscal year.

“(6) Reasonable Cause Exception.—The Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

“(7) Corrective Compliance Plan.—
“(A) In General.—
“(i) Notification of Violation.—Notwithstanding any other provision of law, the Federal Government shall, before assessing a penalty against a State under this subsection, notify the State of the violation of law for which the penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct any such violations and how the State will insure continuing compliance with the requirements of this subpart.
“(ii) 60-Day Period to Propose a Corrective Compliance Plan.—Any State notified under clause (i) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in clause (i).
“(iii) Acceptance of Plan.—The Federal Government shall have 60 days to accept or reject the State’s corrective compliance plan and may consult with the
State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

"(B) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in this subsection if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

"(8) LIMITATION ON AMOUNT OF PENALTY.—

"(A) IN GENERAL.—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 431(a) for the immediately succeeding fiscal year.

"(g) TREATMENT OF TERRITORIES.—

"(1) IN GENERAL.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this subpart.

"(2) PAYMENTS.—Each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount, in accordance with section 1108, which shall be used for the purpose of carrying out a child protection program in accordance with the provisions of this subpart.

"(h) LIMITATION ON FEDERAL AUTHORITY.—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this subpart or enforce any provision of this subpart.

"SEC. 432. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.

"(a) IN GENERAL.—Each State operating a program under this subpart shall make foster care maintenance payments under section 431(b) with respect to a child who would meet the requirements of section 406(a) or of section 407 (as in effect on the day before the date of the enactment of this subpart) but for the removal of the child from the home of a relative (specified in section 406(a) (as so in effect)), if—

"(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 430(a)(13) have been made;

"(2) such child's placement and care are the responsibility of—

"(A) the State; or
"(B) any other public agency with whom the State has made an agreement for the administration of the State program under this subpart which is still in effect;
"(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and
"(4) such child—
"(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or
"(B) would have received such aid in or for such month if application had been made therefore, or the child had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made.
"(b) LIMITATION ON FOSTER CARE PAYMENTS.—Foster care maintenance payments may be made under this subpart only on behalf of a child described in subsection (a) of this section who is—
"(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child-placement or child-care agency; or
"(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 437(6)).
"(c) VOLUNTARY PLACEMENTS.—
"(1) SATISFACTION OF CHILD PROTECTION STANDARDS.—Notwithstanding any other provision of this section, Federal payments may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments under this subpart, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 435(b) or 430(a)(12).
"(2) REMOVAL IN EXCESS OF 180 DAYS.—No Federal payment may be made under this subpart with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child's home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to
the effect that such placement is in the best interests of the child.

"(3) DEEMED REVOCATION OF AGREEMENTS.—In any case where—

"(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a); and

"(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative, the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

"SEC. 433. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.

"(a) IN GENERAL.—A State operating a program under this subpart shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

"(b) PAYMENTS UNDER AGREEMENTS.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs who meets the requirements of subsection (c), the State may make adoption assistance payments to such parents or through another public or nonprofit private agency, in amounts determined under subsection (d).

"(c) CHILDREN WITH SPECIAL NEEDS.—For purposes of subsection (b), a child meets the requirements of this subsection if such child—

"(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as in effect on the day before the date of the enactment of this subpart) or would have met such requirements except for such child's removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 431(b) (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

"(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits;

"(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;

"(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this subpart, adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;

"(B) would have received such aid in or for such month if application had been made therefore, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would
have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made; or

"(C) is a child described in subparagraph (A) or (B); and

"(3) has been determined by the State, pursuant to subsection (g) of this section, to be a child with special needs.

"(d) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this subpart, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(e) PAYMENT EXCEPTION.—Notwithstanding subsection (d), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this subpart shall keep the State or public or nonprofit private agency administering the program under this subpart informed of circumstances which would, pursuant to this section, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(f) PRE-ADOPTION PAYMENTS.—For purposes of this subpart, individuals with whom a child who has been determined by the State, pursuant to subsection (g), to be a child with special needs is placed for adoption in accordance with applicable State and local law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(g) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of the child's parents; and

"(2) the State had first determined—

"(A) that there exists with respect to the child a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assist-
ance under this subpart or medical assistance under title
XIX or XXI; and

“(B) that, except where it would be against the best
interests of the child because of such factors as the exist-
ence of significant emotional ties with prospective adoptive
parents while in the care of such parents as a foster child,
a reasonable, but unsuccessful, effort has been made to
place the child with appropriate adoptive parents without
providing adoption assistance under this section or medical
assistance under title XIX or XXI.

“SEC. 434. CITIZEN REVIEW PANELS.

“(a) ESTABLISHMENT.—Each State to which a grant is made
under section 431(a) shall establish at least 3 citizen review panels.

“(b) COMPOSITION.—Each panel established under subsection
(a) shall be broadly representative of the community from which
drawn.

“(c) FREQUENCY OF MEETINGS.—Each panel established under
subsection (a) shall meet not less frequently than quarterly.

“(d) DUTIES.—

“(1) IN GENERAL.—Each panel established under subsection
(a) shall, by examining specific cases, determine the extent
to which the State and local agencies responsible for carrying
out activities under this subpart are doing so in accordance
with the State plan, with the child protection standards set
forth in section 430(a)(12) and 435, and with any other criteria
that the panel considers important to ensure the protection
of children.

“(2) CONFIDENTIALITY.—The members and staff of any
panel established under subsection (a) shall not disclose to
any person or government any information about any specific
child protection case with respect to which the panel is provided
information.

“(e) STATE ASSISTANCE.—Each State that establishes a panel
under subsection (a) shall afford the panel access to any information
on any case that the panel desires to review, and shall provide
the panel with staff assistance in performing its duties.

“(f) REPORTS.—Each panel established under subsection (a)
shall make a public report of its activities after each meeting.

“SEC. 435. FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL
FEDERAL PAYMENTS.

“(a) REDUCTION OF GRANT.—A State shall not receive a grant
under section 431(a) unless such State—

“(1) has conducted an inventory of all children who have
been in foster care under the responsibility of the State for
a period of 6 months preceding the inventory, and determined
the appropriateness of, and necessity for, the current foster
placement, whether the child can be or should be returned
to his parents or should be freed for adoption, and the services
necessary to facilitate either the return of the child or the
placement of the child for adoption or legal guardianship; and

“(2) has implemented and is operating to the satisfaction
of the Secretary—

“(A) a statewide information system from which the
status, demographic characteristics, location, and goals for
the placement of every child in foster care or who has
been in such care within the preceding 12 months can readily be determined:

"(B) a case review system (as defined in section 437(4)) for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

"(b) ADDITIONAL REQUIREMENTS.—A State shall not receive a grant under section 431(a) unless such State—

"(1) has completed an inventory of the type specified in subsection (a)(1);

"(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

"(3) has implemented a preplacement preventive service program designed to help children remain with their families.

"(c) PRESUMPTION FOR EXPENDITURES.—Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

"SEC. 436. DATA COLLECTION AND REPORTING.

"(a) ANNUAL REPORTS ON STATE CHILD WELFARE GOALS.—On the date that is 3 years after the effective date of this subpart and annually thereafter, each State to which a grant is made under section 431(a) shall submit to the Secretary a report that contains quantitative information on the extent to which the State is making progress toward achieving the goals of the State child protection program.

"(b) STATE DATA REPORTS.—

"(1) BIANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall biannually submit to the Secretary a report that includes the following information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this subpart:

"(A) Whether the child received services under the program funded under this subpart.

"(B) The age, gender, and family income of the parents and child.

"(C) The county of residence of the child.

"(D) Whether the child was removed from the family.

"(E) Whether the child entered foster care under the responsibility of the State.

"(F) The type of out-of-home care in which the child was placed (including institutional care, group home care, family foster care, or relative placement).

"(G) The child's permanency planning goal, such as family reunification, kinship care, adoption, or independent living.

"(H) Whether the child was released for adoption.

"(I) Whether the child exited from foster care, and, if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.

"(J) Other information as required by the Secretary and agreed to by a majority of the States, including
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information necessary to ensure a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(2) ANNUAL REPORTS.—Each State to which a grant is made under section 431(a) shall annually submit to the Secretary a report that includes the following information:

"(A) The number of children reported to the State during the year as alleged victims of abuse or neglect.

"(B) The number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.

"(C) The number of families that received preventive services.

"(D) The number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.

"(E) The number of deaths of children resulting from child abuse or neglect.

"(F) The number of deaths occurring while children were in the custody of the State.

"(G) The number of children served by the State independent living program.

"(H) Quantitative measurements demonstrating whether the State is making progress toward the child protection goals identified by the State.

"(I) The types of maltreatment suffered by victims of child abuse and neglect.

"(J) The number of abused and neglected children receiving services.

"(K) The average length of stay of children in out-of-home care.

"(L) The response of the State to the findings and recommendations of the citizen review panels established under section 434.

"(M) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(c) AUTHORITY OF STATES TO USE ESTIMATES.—

"(1) IN GENERAL.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.

"(2) SECRETARIAL REVIEW OF SAMPLING METHODS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require a State to revise the sampling methods so used if such methods do not meet scientific standards and shall impose the penalty
described in section 431(f)(4) upon a State if a State has not
cомplied with such requirements.

"(d) SCOPE OF STATE PROGRAM FUNDED UNDER THIS SUBPART.—
As used in subsection (b), the term 'State program funded under
this subpart' includes any equivalent State program.

"SEC. 437. DEFINITIONS.

"For purposes of this subpart, the following definitions shall
apply:

"(1) ADMINISTRATIVE REVIEW.—The term 'administrative
review' means a review open to the participation of the parents
of the child, conducted by a panel of appropriate persons at
least one of whom is not responsible for the case management
of, or the delivery of services to, either the child or the parents
who are the subject of the review.

"(2) ADOPTION ASSISTANCE AGREEMENT.—The term 'adop-
tion assistance agreement' means a written agreement, binding
on the parties to the agreement, between the State, other
relevant agencies, and the prospective adoptive parents of a
minor child which at a minimum—

"(A) specifies the nature and amount of any payments,
services, and assistance to be provided under such agree-
ment; and

"(B) stipulates that the agreement shall remain in
effect regardless of the State of which the adoptive parents
are residents at any given time.

The agreement shall contain provisions for the protection
(under an interstate compact approved by the Secretary or
otherwise) of the interests of the child in cases where the
adoptive parents and child move to another State while the
agreement is effective.

"(3) CASE PLAN.—The term 'case plan' means a written
document which includes at least the following:

"(A) A description of the type of home or institution
in which a child is to be placed, including a discussion
of the appropriateness of the placement and how the agency
which is responsible for the child plans to carry out the
voluntary placement agreement entered into or judicial
determination made with respect to the child in accordance
with section 432(a)(1).

"(B) A plan for assuring that the child receives proper
care and that services are provided to the parents, child,
and foster parents in order to improve the conditions in
the parents' home, facilitate return of the child to his
or her own home or the permanent placement of the child,
and address the needs of the child while in foster care,
including a discussion of the appropriateness of the services
that have been provided to the child under the plan.

"(C) To the extent available and accessible, the health
and education records of the child, including—

"(i) the names and addresses of the child's health
and educational providers;

"(ii) the child's grade level performance;

"(iii) the child's school record;

"(iv) assurances that the child's placement in foster
care takes into account proximity to the school in which
the child is enrolled at the time of placement;
“(v) a record of the child’s immunizations;
“(vi) the child’s known medical problems;
“(vii) the child’s medications; and
“(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

“(4) CASE REVIEW SYSTEM.—The term ‘case review system’ means a procedure for assuring that—

“(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interest and special needs of the child, which—

“(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and

“(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;

“(B) the status of each child is reviewed periodically but no less frequently than once every 6 months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

“(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child’s special needs or circumstances) be
continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents; and

"(D) a child's health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

(5) CHILD-CARE INSTITUTION.—The term 'child-care institution' means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(6) FOSTER CARE MAINTENANCE PAYMENTS.—

"(A) IN GENERAL.—The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"(B) SPECIAL RULE.—In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

"(ii) payments described in subparagraph (A) are being made under this subpart with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

(7) FOSTER FAMILY HOME.—The term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.

(8) STATE.—The term 'State' means the 50 States and the District of Columbia.
"(9) VOLUNTARY PLACEMENT.—The term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

"(10) VOLUNTARY PLACEMENT AGREEMENT.—The term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

SEC. 12702. CONFORMING AMENDMENTS.

(a) REPEAL OF PART E OF TITLE IV OF THE SOCIAL SECURITY ACT.—Part E of title IV of the Social Security Act (42 U.S.C. 671–679) is hereby repealed.

(b) REPEAL OF SECTION 13712 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note) is hereby repealed.

(c) REPEAL OF SECTION 435.—Section 435 of the Social Security Act, as amended by section 12701, is repealed on April 1, 1996.

SEC. 12703. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect as if enacted on October 1, 1995.

(b) TRANSITION RULE.—

(1) STATE OPTION TO CONTINUE PROGRAMS.—

(A) 9-MONTH EXTENSION.—A State may continue the State programs under subpart 2 of part B and part E of title IV of the Social Security Act, as in effect on September 30, 1995 (for purposes of this paragraph, the "State programs") until June 30, 1996.

(B) NO INDIVIDUAL OR FAMILY ENTITLEMENT UNDER CONTINUED STATE PROGRAMS.—Notwithstanding any other provision of law or any rule of law, no individual or family is entitled to aid under the State programs of any State on or after the date of the enactment of this Act.

(C) LIMITATIONS ON FEDERAL OBLIGATIONS.—If a State elects to continue the State programs pursuant to subparagraph (A), the total obligations of the Federal Government to the State under subpart 2 of part B and part E of title IV of the Social Security Act (as such subpart and part are in effect on September 30, 1995) after the date of the enactment of this Act shall not exceed an amount equal to—

(i) the grant to the State under section 431(a)

(as in effect pursuant to the amendment made by section 12701 of this Act)); minus

(ii) any obligations of the Federal Government to the State under such subpart and part (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.
(D) Submission of State Plan for Fiscal Year 1996 Deemed Acceptance of Grant Limitations and Formula.—The submission of a plan by a State under section 430(a) of the Social Security Act (as in effect pursuant to the amendment made by section 12701 of this Act) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant reduction under subparagraph (C) of this paragraph (including the formula for computing the amount of the reduction).

(2) Claims, Actions, and Proceedings.—The amendments made by this subtitle shall not apply with respect to—
   (A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and
   (B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) Closing Out Account for Those Programs Terminated or Substantially Modified by This Subtitle.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—
   (A) use the single audit procedure to review and resolve any claims in connection with the close out of programs; and
   (B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

Subtitle H—Child Care

SEC. 12801. SHORT TITLE AND REFERENCES.

(a) Short Title.—This subtitle may be cited as the "Child Care and Development Block Grant Amendments of 1995".

(b) References.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

SEC. 12802. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) In General.—Section 658B (42 U.S.C. 9858) is amended to read as follows:
Subtitle J—Food Stamps and Commodity Distribution

SEC. 13001. SHORT TITLE.

This subtitle may be cited as the "Food Stamp Reform and Commodity Distribution Act of 1995".

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 13011. DEFINITION OF CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months."

SEC. 13012. DEFINITION OF COUPON.

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number."
SEC. 13013. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not
themselves parents living with their children or married and living
with their spouses)".

SEC. 13014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following:
"Notwithstanding the preceding sentences, a State may establish
criteria that prescribe when individuals who live together, and
who would be allowed to participate as separate households under
the preceding sentences, shall be considered a single household,
without regard to the common purchase of food and preparation
of meals."

SEC. 13015. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act
of 1977 (7 U.S.C. 2012(o)) is amended—
(1) by striking "shall (1) make" and inserting the following:
"shall—
"(1) make":
(2) by striking "scale, (2) make" and inserting "scale;
"(2) make":
(3) by striking "Alaska, (3) make" and inserting the follow-
ing: "Alaska;
"(3) make": and
(4) by striking "Columbia, (4) through" and all that follows
through the end of the subsection and inserting the following:
"Columbia; and
"(4) on October 1, 1996, and each October 1 thereafter,
adjust the cost of the diet to reflect the cost of the diet, in
the preceding June, and round the result to the nearest lower
dollar increment for each household size, except that on October
1, 1996, the Secretary may not reduce the cost of the diet
in effect on September 30, 1996."

SEC. 13016. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C.
2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 13017. STATE OPTION FOR ELIGIBILITY STANDARDS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the follow-
ing:
"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".

SEC. 13018. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C.
2014(d)(7)) is amended by striking "21" and inserting "19".

SEC. 13019. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977
(7 U.S.C. 2014(d)) is amended by striking paragraph (11) and insert-
ing the following: "(11) a 1-time payment or allowance made under
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a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device.

(b) CONFORMING AMENDMENTS.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(ii) in subparagraph (B), by striking "not including energy or utility-cost assistance,";

(B) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) a payment or allowance described in subsection (d)(11);"; and

(C) by adding at the end the following:

"(4) THIRD-PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household."

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking '(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) in paragraph (1), by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 13020. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.

"(2) EARNED INCOME DEDUCTION.—

"(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term 'earned income' does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

"(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income (other than income excluded by subsection (d)) to compensate for taxes, other mandatory deductions from salary, and work expenses.
“(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

“(3) DEPENDENT CARE DEDUCTION.—

“(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

“(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

“(i) expenses paid on behalf of the household by a third party;

“(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

“(iii) expenses that are paid under section 6(d)(4).

“(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

“(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

“(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

“(5) HOMELESS SHELTER ALLOWANCE.—A State agency may develop a standard homeless shelter allowance, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.

“(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

“(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

“(B) METHOD OF CLAIMING DEDUCTION.—

“(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical
expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.

"(ii) METHOD.—The method described in clause (i) shall—

"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

"(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

"(7) EXCESS SHELTER EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—

"(i) in the 48 contiguous States and the District of Columbia, $247 per month; and

"(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food
stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall
be considered to be prorated over the entire heating or cooling season for which the assistance was provided."

(b) **CONFORMING AMENDMENT.**—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking ". Under rules prescribed" and all that follows through "verifies higher expenses".

**SEC. 13021. VEHICLE ALLOWANCE.**

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

"(2) **INCLUDED ASSETS.**—

"(A) **IN GENERAL.**—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

"(B) **ADDITIONAL INCLUDED ASSETS.**—The Secretary shall include in financial resources—

"(i) any boat, snowmobile, or airplane used for recreational purposes;

"(ii) any vacation home;

"(iii) any mobile home used primarily for vacation purposes;

"(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds $4,600; and

"(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

"(C) **EXCLUDED VEHICLES.**—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

"(i) used to produce earned income;

"(ii) is necessary for the transportation of a physically disabled household member; or

"(iii) is depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.".

**SEC. 13022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.**

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

**SEC. 13023. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.**

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—
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(1) in clause (i), by striking "six months" and inserting "1 year"; and
(2) in clause (ii), by striking "1 year" and inserting "2 years".

SEC. 13024. DISQUALIFICATION OF CONVICTED INDIVIDUALS.

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—
(1) in subclause (II), by striking "or" at the end;
(2) in subclause (III), by striking the period at the end and inserting "; or"; and
(3) by inserting after subclause (III) the following:
"(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more.".

SEC. 13025. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:
"(d) CONDITIONS OF PARTICIPATION.—

"(I) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—
"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;
"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;
"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—
"(I) the applicable Federal or State minimum wage; or
"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;
"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;
"(v) voluntarily and without good cause—
"(I) quits a job; or
"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or
"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become
ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency;

or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—

"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

"(aa) the meaning of any term in subparagraph (A);
(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

(cc) whether an individual is in compliance with a requirement under subparagraph (A).

(II) NOT LESS RESTRICTIVE.—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

(v) SELECTING A HEAD OF HOUSEHOLD.—

(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.”.

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking “6(d)(1)(i)” and inserting “6(d)(1)(A)(i)”.

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

“(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.”.
SEC. 13026. CARETAKER EXEMPTION.

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: "(B) a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;".

SEC. 13027. EMPLOYMENT AND TRAINING.

(a) In General.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than April 1, 1987, each" and inserting "Each";

(B) by inserting "work," after "skills, training,"; and

(C) by adding at the end the following: "Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application;"

(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application"; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(3) in subparagraph (D)—

(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";

(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and

(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";

(4) in subparagraph (E), by striking the third sentence;

(5) in subparagraph (G)—

(A) by striking "(G)(i) The State" and inserting "(G) The State";

(B) by striking clause (ii);

(6) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";

(7) in subparagraph (I)(i)(II), by striking ", or was in operation," and all that follows through "Social Security Act" and inserting the following: "), except that no such payment or reimbursement shall exceed the applicable local market rate;"

(8)(A) by striking subparagraphs (K) and (L) and inserting the following:

"(K) Limitation on funding.—Notwithstanding any other provision of this paragraph, the amount of funds
a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking “(h)(1)(A) The Secretary” and all that follows through the end of paragraph (1) and inserting the following:

“(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

“(1) IN GENERAL.—

“(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

“(i) for fiscal year 1996, $77,000,000;
“(ii) for fiscal year 1997, $80,000,000;
“(iii) for fiscal year 1998, $83,000,000;
“(iv) for fiscal year 1999, $86,000,000;
“(v) for fiscal year 2000, $89,000,000;
“(vi) for fiscal year 2001, $92,000,000; and
“(vii) for fiscal year 2002, $95,000,000.

“(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

“(C) REALLOCATION.—

“(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

“(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

“(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 in each fiscal year.”.

(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: “, including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work”.
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(d) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—
   (A) by striking "(5)(A) The Secretary" and inserting "(5) The Secretary"; and
   (B) by striking subparagraph (B); and
(2) by striking paragraph (6).

SEC. 13028. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(1) by redesignating subsection (i), as added by section 12104, as subsection (p); and
(2) by inserting after subsection (h) the following:

"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

"(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking "and" at the end;
(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and
(3) by adding at the end the following:

"(26) the guidelines the State agency uses in carrying out section 6(i); and".

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 13029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13028, is further amended by inserting after subsection (i) the following:

"(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the iden-
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tity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.”.

SEC. 13030. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13029, is further amended by inserting after subsection (j) the following:

“(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

“(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

“(2) violating a condition of probation or parole imposed under a Federal or State law.”.

SEC. 13031. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 13030, is further amended by inserting after subsection (k) the following:

“(l) CUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as ‘the individual’) who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

“(A) in establishing the paternity of the child (if the child is born out of wedlock); and

“(B) in obtaining support for—

“(i) the child; or

“(ii) the individual and the child.

“(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

“(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

“(m) NON-CUSTODIAL PARENT’S COOPERATION WITH CHILD SUPPORT AGENCIES.—

“(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as ‘the individual’) shall not be eligible to participate
in the food stamp program if the individual refuses to cooperate
with the State agency administering the program established
under part D of title IV of the Social Security Act (42 U.S.C.
651 et seq.)—

"(A) in establishing the paternity of the child (if the
child is born out of wedlock); and
"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with
the Secretary of Health and Human Services, shall develop
guidelines on what constitutes a refusal to cooperate under
paragraph (1).

"(B) PROCEDURES.—The State agency shall develop
procedures, using guidelines developed under subparagraph
(A), for determining whether an individual is refusing to
cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment
of a fee or other cost for services provided under part D of
title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards
to restrict the use of information collected by a State agency
administering the program established under part D of title
IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes
for which the information is collected.”.

SEC. 13032. DISQUALIFICATION RELATING TO CHILD SUPPORT
ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015),
as amended by section 13031, is further amended by inserting
after subsection (m) the following:

"(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—No individual shall be eligible to partici-
pate in the food stamp program as a member of any household
during any month that the individual is delinquent in any
payment due under a court order for the support of a child
of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay pay-
ment; or
"(B) the individual is complying with a payment plan
approved by a court or the State agency designated under
part D of title IV of the Social Security Act (42 U.S.C.
651 et seq.) to provide support for the child of the individ-
ual.”.

SEC. 13033. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977
(7 U.S.C. 2015), as amended by section 13032, is further amended
by inserting after subsection (n) the following:

"(o) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection,
the term 'work program' means—

"(A) a program under the Job Training Partnership
Act (29 U.S.C. 1501 et seq.);
"(B) a program under section 236 of the Trade Act
of 1974 (19 U.S.C. 2296); or
"(C) a program of employment or training operated
or supervised by a State or political subdivision of a State
that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.

(2) Work Requirement.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—

(A) work 20 hours or more per week, averaged monthly; or

(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.

(3) Exception.—Paragraph (2) shall not apply to an individual if the individual is—

(A) under 18 or over 50 years of age;

(B) medically certified as physically or mentally unfit for employment;

(C) a parent or other member of a household with responsibility for a dependent child;

(D) otherwise exempt under section 6(d)(2); or

(E) a pregnant woman.

(4) Waiver.—

(A) In General.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

(i) has an unemployment rate of over 10 percent; or

(ii) does not have a sufficient number of jobs to provide employment for the individuals.

(B) Report.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(5) Subsequent Eligibility.—

(A) In General.—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—

(i) works 80 or more hours;

(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

(iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.

(B) Limitation.—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—

(i) work 20 hours or more per week, averaged monthly;
(ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

(iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State."

(b) TRANSITION PROVISION.—Prior to 1 year after the date of enactment of this Act, the term "preceding 12-month period" in section 6(o) of the Food Stamp Act of 1977, as amended by subsection (a), means the preceding period that begins on the date of enactment of this Act.

SEC. 13034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ELECTRONIC BENEFIT TRANSFERS.—

(A) IMPLEMENTATION.—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 24 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

(B) TIMELY IMPLEMENTATION.—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

(i) commercial electronic funds transfer technology;

(ii) the need to permit interstate operation and law enforcement monitoring; and

(iii) the need to permit monitoring and investigations by authorized law enforcement agencies."

(2) in paragraph (2)—

(A) by striking "effective no later than April 1, 1992,;"

(B) in subparagraph (A)—

(i) by striking ", in any 1 year,";

and

(ii) by striking "on-line";

(C) by striking subparagraph (D) and inserting the following:

"(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that
may be acquired with an allotment from items of food that may not be acquired with an allotment.

(D) in subparagraph (G), by striking “and” at the end;

(E) in subparagraph (H), by striking the period at the end and inserting “; and”;

(F) by adding at the end the following:

“(I) procurement standards.”;

and

(3) by adding at the end the following:

“(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.

“(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

“(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

“(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

“(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.”.

SEC. 13035. VALUE OF MINIMUM ALLOTMENT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking “, and shall be adjusted” and all that follows through “$5”.

SEC. 13036. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking “of more than one month”.

SEC. 13037. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

“(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.”.

SEC. 13038. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

“(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—
“(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

“(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

“(B) the State agency may reduce the allotment of the household by not more than 25 percent.

“(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.”.

SEC. 13039. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

“(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

“(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

“(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

“(B) the individual, if the individual leaves the center.

“(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.”.

SEC. 13040. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: “No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.”.

SEC. 13041. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

“(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.”.
SEC. 13042. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting "which may include relevant income and sales tax filing documents," after "submit information"; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified."

SEC. 13043. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial."

SEC. 13044. EXPEDITED COUPON SERVICE.

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking "five days" and inserting "7 days"; and

(B) by inserting "and" at the end;

(2) by striking subparagraphs (B) and (C);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B), as redesignated by paragraph (3), by striking "(B), or (C)".

SEC. 13045. WITHDRAWING FAIR HEARING REQUESTS.

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: "At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing".

SEC. 13046. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:
"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application."

SEC. 13047. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

“(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

“(2) TERMS.—A disqualification under paragraph (1)—

“(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

“(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

“(C) notwithstanding section 14, shall not be subject to judicial or administrative review.”.

SEC. 13048. COLLECTION OF OVERISSUANCES.

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

“(1) by striking subsection (b) and inserting the following:

“(b) COLLECTION OF OVERISSUANCES.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

“(A) reducing the allotment of the household;

“(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

“(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

“(D) any other means.

“(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

“(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found eligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

“(A) 10 percent of the monthly allotment of the household; or

“(B) $10.
“(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment.”; and

(2) in subsection (d)—

(A) by striking “as determined under subsection (b) and except for claims arising from an error of the State agency,” and inserting “, as determined under subsection (b)(1),”; and

(B) by inserting before the period at the end the following: “or a Federal income tax refund as authorized by section 3720A of title 31, United States Code”.

(b) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking “and excluding claims” and all that follows through “such section”;

(2) by inserting before the semicolon at the end the following: “or a Federal income tax refund as authorized by section 3720A of title 31, United States Code”.

(c) RETENTION RATE.—Section 16(a) of the Act (7 U.S.C. 2025(a)) is amended by striking “25 percent during the period beginning October 1, 1990” and all that follows through “error of a State agency” and inserting the following: “25 percent of the overissuances collected by the State agency under section 37, except those overissuances arising from an error of the State agency”.

SEC. 13049. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

“(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.”.

SEC. 13050. LIMITATION OF FEDERAL MATCH.

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: “but not including recruitment activities,”.

SEC. 13051. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following:

“(c) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

“(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term ‘work supplementation or support program’ means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and
(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

(C) for purposes of—

(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.

SEC. 13052. AUTHORIZATION OF PILOT PROJECTS.

The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

SEC. 13053. EMPLOYMENT INITIATIVES PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:
"(d) Employment Initiatives Program.—

"(1) Election to Participate.—

"(A) In general.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

"(B) Requirement.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) Procedure.—

"(A) In general.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(B) Payment.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.

"(C) Other provisions.—For purposes of the food stamp program (other than this subsection)—

"(i) cash assistance under this subsection shall be considered to be an allotment; and

"(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.

"(D) Additional Payments.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

"(i) increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

"(ii) pay the cost of any increase in cash benefits required by clause (i).

"(3) Eligibility.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;
“(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or
“(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;
“(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and
“(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.
“(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.”

SEC. 13054. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking “$974,000,000” and all that follows through “fiscal year 1995” and inserting “$1,143,000,000 for each of fiscal years 1995 and 1996, $1,182,000,000 for fiscal year 1997, $1,223,000,000 for fiscal year 1998, $1,266,000,000 for fiscal year 1999, $1,310,000,000 for fiscal year 2000, $1,357,000,000 for fiscal year 2001, and $1,404,000,000 for fiscal year 2002”.

SEC. 13055. SIMPLIFIED FOOD STAMP PROGRAM.

(a) IN GENERAL.—The Act (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

“SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.

“(a) DEFINITION OF FEDERAL COSTS.—In this section, the term ‘Federal costs’ does not include any Federal costs incurred under section 17.
“(b) ELECTION.—Subject to subsection (d), a State agency may elect to carry out a Simplified Food Stamp Program (referred to in this section as a ‘Program’) in accordance with this section.
“(c) OPERATION OF PROGRAM.—If a State agency elects to carry out a Program, within the State or a political subdivision of the State—
“(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and
“(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—
“(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);
“(B) the food stamp program (other than section 25);

or
“(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C.
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601 et seq.) and the food stamp program (other than section 25).

"(d) APPROVAL OF PROGRAM.—

"(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

"(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

"(A) complies with this section; and

"(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

"(e) INCREASED FEDERAL COSTS.—

"(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—

"(A) participation;

"(B) the income of participants in the food stamp program that is not attributable to public assistance; and

"(C) the thrifty food plan under section 3(o).

"(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State agency not later than 30 days after the Secretary makes the determination under paragraph (1).

"(3) ENFORCEMENT.—

"(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State agency shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

"(B) TERMINATION.—If the State agency does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency to operate a Program and the State agency shall be ineligible to operate a future Program.

"(f) RULES AND PROCEDURES.—

"(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

"(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

"(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

"(A) subsections (a) through (g) of section 7;
“(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));
“(C) subsection (b) and (d) of section 8;
“(D) subsections (a), (c), (d), and (n) of section 11;
“(E) paragraphs (8), (12), (17), (19), (21), (26), and (27) of section 11(e);
“(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and
“(G) section 16.
“(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.”.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by section 13028(b), is further amended by adding at the end the following:
“(27) if a State agency elects to carry out a Simplified Food Stamp Program under section 24, the plans of the State agency for operating the program, including—
“(A) the rules and procedures to be followed by the State to determine food stamp benefits;
“(B) how the State will address the needs of households that experience high shelter costs in relation to the incomes of the households; and
“(C) a description of the method by which the State will carry out a quality control system under section 16(c).”.

(c) CONFORMING AMENDMENTS.—
(1) Section 8 of the Act (7 U.S.C. 2017), as amended by section 13039, is further amended—
(A) by striking subsection (e); and
(B) by redesignating subsection (f) as subsection (e).
(2) Section 17 of the Act (7 U.S.C. 2026) is amended—
(A) by striking subsection (i); and
(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

SEC. 13056. STATE FOOD ASSISTANCE BLOCK GRANT.
(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13055, is further amended by adding at the end the following:

“SEC. 25. STATE FOOD ASSISTANCE BLOCK GRANT.
“(a) DEFINITIONS.—In this section:
“(1) FOOD ASSISTANCE.—The term ‘food assistance’ means assistance that may be used only to obtain food, as defined in section 3(g).
“(2) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.
(b) Establishment.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

'(1) food assistance to needy individuals and families residing in the State; and

'(2) funds for administrative costs incurred in providing the assistance.

(c) Election.—

'(1) In general.—A State may annually elect to participate in the program established under subsection (b) if the State—

'(A) has fully implemented an electronic benefit transfer system that operates in the entire State;

'(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or

'(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State's food assistance program, the amount determined under paragraph (2).

'(2) State mandatory contributions.—

'(A) In general.—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—

'(i) the benefits issued in the State; multiplied by

'(ii) the payment error rate of the State; minus

'(B) the benefits issued in the State; multiplied by

'(ii) 6 percent.

'(B) Determination.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.

'(C) Data.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

'(3) Election limitation.—

'(A) Re-entering Food Stamp Program.—A State that elects to participate in the program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.

'(B) Limitation.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).

'(4) Program exclusive.—

'(A) In general.—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

'(B) Contract with Federal Government.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.
“(d) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

“(e) APPLICATION AND PLAN.—

“(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

“(A) an assurance that the State will comply with the requirements of this section;

“(B) a State plan that meets the requirements of paragraph (3); and

“(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

“(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

“(3) REQUIREMENTS OF PLAN.—

“(A) LEAD AGENCY.—The State plan shall identify the lead agency.

“(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

“(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and

“(ii) to pay administrative costs incurred in providing the assistance.

“(C) GROUPS SERVED.—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from treatment under the food stamp program under the other sections of this Act of the individuals and families, including—

“(i) elderly individuals and families;

“(ii) migrants or seasonal farmworkers;

“(iii) homeless individuals and families;

“(iv) individuals and families who live in institutions eligible under section 3(i);

“(v) individuals and families with earnings; and

“(vi) members of Indian tribes or tribal organizations.

“(D) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

“(E) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.
"(F) ASSESSMENT OF NEEDS.—The State plan shall assess the food and nutrition needs of needy persons residing in the State.

"(G) ELIGIBILITY STANDARDS.—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.

"(H) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system for the exchange of information with other States to verify the identity and receipt of benefits by recipients.

"(I) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

"(J) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

"(g) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(h) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

"(i) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set
forth in the State plan approved under subsection (e)(4); or

"(iii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER PENALTIES.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints made to the Secretary concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing penalties under this section.

"(j) GRANT.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year, adjusted for any reduction required under subsection (m)(2).

"(2) METHOD OF GRANT.—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) SPENDING OF GRANTS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.

"(B) CARRYOVER.—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, not more than 6 percent of the
Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.

"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(k) QUALITY CONTROL.—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c).

"(l) NONDISCRIMINATION.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(m) GRANT CALCULATION.—

"(1) STATE GRANT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State participating in the program established under this section an amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

"(ii) the greater of, as determined by the Secretary—

"(I) the total amount received by the State for administrative costs under section 16 for fiscal year 1994; or

"(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16 for each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.
"(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).".

(b) EMPLOYMENT AND TRAINING FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 13027(d)(2), is further amended by adding at the end the following:

"(6) BLOCK GRANT STATES.—Each State electing to operate a program under section 25 shall—

"(A) receive the greater of—

"(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or

"(ii) the average per fiscal year of the total dollar value of all funds received under paragraph (1) by the State during each of fiscal years 1992 through 1994; and

"(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).".

(c) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2026), as amended by section 13055(c)(2), is further amended by adding at the end the following:

"(1) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may conduct research on the effects and costs of a State program carried out under section 25.".

SEC. 13057. AMERICAN SAMOA.
The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13056, is further amended by adding at the end the following:

"SEC. 26. TERRITORY OF AMERICAN SAMOA.

"From amounts made available to carry out this Act, the Secretary may pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).".

SEC. 13058. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.
The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 13057, is further amended by adding at the end the following:

"SEC. 27. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible
private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section for any fiscal year may not exceed $2,500,000.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-
profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation."

CHAPTER 2—COMMODITY DISTRIBUTION PROGRAMS

SEC. 13071. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 201A. DEFINITIONS.

"In this Act:

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) ELIGIBLE RECIPIENT AGENCY.—The term 'eligible recipient agency' means a public or nonprofit organization—

"(A) that administers—

"(i) an emergency feeding organization;

"(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

"(iii) a summer camp for children, or a child nutrition program providing food service;

"(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

"(v) a disaster relief program;

"(B) that has been designated by the appropriate State agency, or by the Secretary; and

"(C) that has been approved by the Secretary for participation in the program established under this Act.

"(4) EMERGENCY FEEDING ORGANIZATION.—The term 'emergency feeding organization' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen,
or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

"(5) FOOD BANK.—The term 'food bank' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

"(6) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

"(7) POVERTY LINE.—The term 'poverty line' has the same meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(8) SOUP KITCHEN.—The term 'soup kitchen' means a public or charitable institution that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

"(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

"(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary)."

(b) STATE PLAN.—Section 202A of the Act (7 U.S.C. 612c note) is amended to read as follows:

"SEC. 202A. STATE PLAN.

"(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

"(b) REQUIREMENTS.—Each plan shall—

"(1) designate the State agency responsible for distributing the commodities received under this Act;

"(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

"(3) set forth the standards of eligibility for recipient agencies; and

"(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

"(A) individuals or households to be comprised of needy persons; and

"(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance."
(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence—
   (A) by striking “1991 through 1995” and inserting “1996 through 2002”; and
   (B) by striking “for State and local” and all that follows through “under this title” and inserting “to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources”; and
   (2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Act (7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);
(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;
(3) in subsection (b), as redesignated by paragraph (2)—
   (A) in the first sentence, by striking “subsection (f) or subsection (j) if applicable,” and inserting “subsection (a)”; and
   (B) in the second sentence, by striking “subsection (f)” and inserting “subsection (a)”;
(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:

"(c) ADMINISTRATION.—

"(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

"(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a).”; and
(5) in subsection (d), as redesignated by paragraph (2), by striking "or reduce" and all that follows through "each fiscal year".

(e) TECHNICAL AMENDMENTS.—The Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking "203 and 203A of this Act" and inserting "203A";
(2) in section 204(a), by striking "title" each place it appears and inserting "Act";
(3) in the first sentence of section 210(e), by striking "(except as otherwise provided for in section 214(j))"; and
(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).
as amended by section 13058, is further amended by adding at
the end the following:

"SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD
ASSISTANCE PROGRAM.

"(a) PURCHASE OF COMMODITIES.—From amounts appropriated
under this Act, for each of fiscal years 1997 through 2002, the
Secretary shall purchase $300,000,000 of a variety of nutritious
and useful commodities of the types that the Secretary has the
authority to acquire through the Commodity Credit Corporation
or under section 32 of the Act entitled 'An Act to amend the
Agricultural Adjustment Act, and for other purposes', approved
August 24, 1935 (7 U.S.C. 612c), and distribute the commodities
to States for distribution in accordance with section 214 of the
612c note).

"(b) BASIS FOR COMMODITY PURCHASES.—In purchasing
commodities under subsection (a), the Secretary shall, to the extent
practicable and appropriate, make purchases based on—

"(1) agricultural market conditions;
"(2) preferences and needs of States and distributing agen-
cies; and
"(3) preferences of recipients."

"(h) EFFECTIVE DATE.—The amendments made by subsection
(d) shall become effective on October 1, 1996.

Subtitle K—Miscellaneous

SEC. 13101. FOOD STAMP ELIGIBILITY.

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f))
is amended by striking the third sentence and inserting the follow-
ing: "The State agency shall, at its option, consider either all income
and financial resources of the individual rendered ineligible to
participate in the food stamp program under this subsection, or
such income, less a pro rata share, and the financial resources
of the ineligible individual, to determine the eligibility and the
value of the allotment of the household of which such individual
is a member."

SEC. 13102. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

Section 2003(c) of the Social Security Act (42 U.S.C. 1397b)
is amended—

(1) by striking "and" at the end of paragraph (4); and
(2) by striking paragraph (5) and inserting the following:

"(5) $2,800,000,000 for each of the fiscal years 1990 through
1996; and
"(6) $2,240,000,000 for each fiscal year after fiscal year
1996."

Subtitle L—Reform of the Earned Income
Credit

SEC. 13200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this sub-
title an amendment or repeal is expressed in terms of an amend-
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ment to, or repeal of, a section or other provision, the reference
shall be considered to be made to a section or other provision

SEC. 13201. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT
AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals
eligible to claim the earned income credit) is amended by adding
at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term
'eligible individual' does not include any individual who
does not include on the return of tax for the taxable year—
"(i) such individual's taxpayer identification num-
ber, and
"(ii) if the individual is married (within the mean-
ing of section 7703), the taxpayer identification number
of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended
by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of sub-
sections (c)(1)(F) and (c)(3)(D), a taxpayer identification number
means a social security number issued to an individual by the
Social Security Administration (other than a social security number
issued pursuant to clause (II) (or that portion of clause (III) that
relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security
Act)".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL
OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition
of mathematical or clerical errors) is amended by striking "and"
at the end of subparagraph (D), by striking the period at the
end of subparagraph (E) and inserting a comma, and by inserting
after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification
number required under section 32 (relating to the earned
income credit) to be included on a return, and
"(G) an entry on a return claiming the credit under
section 32 with respect to net earnings from self-employ-
ment described in section 32(c)(2)(A) to the extent the
tax imposed by section 1401 (relating to self-employment
tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section
shall apply to taxable years beginning after December 31, 1995.

SEC. 13202. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS
WITHOUT CHILDREN.

(a) IN GENERAL.—Subparagraph (A) of section 32(c)(1) (defining
eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means
any individual who has a qualifying child for the taxable
year.".

(b) CONFORMING AMENDMENTS.—Each of the tables contained
in paragraphs (1) and (2) of section 32(b) are amended by striking
the items relating to no qualifying children.

(c) EFFECTIVE DATE.—The amendments made by this section
shall apply to taxable years beginning after December 31, 1995.
SEC. 13203. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.

(a) Modification of Phaseout.—Subparagraph (B) of section 32(a)(2) is amended to read as follows:

"(B) the sum of—

"(i) the initial phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the initial phaseout amount but does not exceed the final phaseout amount, plus

"(ii) the final phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the final phaseout amount."

(b) Percentages and Amounts.—

(1) In General.—Subsection (b) of section 32, as amended by section 1102(b), is amended to read as follows:

"(b) PERCENTAGES AND AMOUNTS.—

"(1) PERCENTAGES.—The credit percentage, the initial phaseout percentage, and the final phaseout percentage shall be determined as follows:

<table>
<thead>
<tr>
<th>In the case of an eligible individual with:</th>
<th>The credit percentage is:</th>
<th>The initial phaseout percentage is:</th>
<th>The final phaseout percentage is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 qualifying child</td>
<td>34</td>
<td>15.98</td>
<td>20</td>
</tr>
<tr>
<td>2 or more qualifying children</td>
<td>36</td>
<td>21.06</td>
<td>25</td>
</tr>
</tbody>
</table>

"(2) AMOUNTS.—The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:

<table>
<thead>
<tr>
<th>In the case of an eligible individual with:</th>
<th>The earned income amount is:</th>
<th>The initial phaseout amount is:</th>
<th>The final phaseout amount is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 qualifying child</td>
<td>$6,340</td>
<td>$11,630</td>
<td>$14,850</td>
</tr>
<tr>
<td>2 or more qualifying children</td>
<td>$8,910</td>
<td>$11,630</td>
<td>$17,750</td>
</tr>
</tbody>
</table>

(2) Increase in Credit for Lower-Income Families Having 2 or More Qualifying Children.—Subsection (d) of section 32 is amended to read as follows:

"(d) INCREASE IN CREDIT FOR LOWER-INCOME FAMILIES HAVING 2 OR MORE QUALIFYING CHILDREN.—

"(1) IN GENERAL.—If an eligible individual has 2 or more qualifying children, for purposes of applying paragraphs (1) and (2)(A) of subsection (a)—

"(A) the amount of the taxpayer's earned income shall be treated as being equal to 16% of such income (determined without regard to this paragraph), and
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"(B) the earned income amount shall be treated as being equal to \(\frac{10}{9}\) of such amount (determined without regard to this paragraph).

"(2) PHASEOUT OF BENEFIT.—If the applicable income of the taxpayer for the taxable year exceeds $14,000 ($17,000 in the case of a joint return), the amount of each increase under paragraph (1) shall be reduced (but not below zero) by an amount which bears the same ratio to such increase (determined without regard to this subparagraph) as such excess bears to $4,000.

"(3) APPLICABLE INCOME.—For purposes of this subsection, the term 'applicable income' means adjusted gross income or, if greater, earned income."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (j) of section 32 is amended—

(i) by striking "subsection (b)(2)(A)" and inserting "subsection (b) (2) or (d)”,

(ii) by striking "1994" and inserting "1996", and

(iii) by striking "1993" and inserting "1995".

(B) Subsection (e) of section 32 is amended to read as follows:

"(e) OTHER SPECIAL RULES.—

"(1) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year.

"(2) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of an individual, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13204. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the excess (if any) of—

"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount described in a preceding subparagraph), over

"(ii) the aggregate losses from all passive activities for the taxable year (as so determined).

For purposes of subparagraph (D), the term 'passive activity' has the meaning given such term by section 469.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13205. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), (d), and (f)(2)(B) of section 32, as amended by the preceding sections of this subtitle,
are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the sum of the amounts described in subparagraph (B), and

"(ii) determined without regard to—

"(I) the amounts described in subparagraph (C), or

"(II) the deduction allowed under section 172.

"(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—Amounts described in this subparagraph are—

"(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income,

"(ii) amounts which—

"(I) are received during the taxable year by (or on behalf of) a spouse pursuant to a divorce or separation instrument (as defined in section 71(b)(2)), and

"(II) under the terms of the instrument are fixed as payable for the support of the children of the payor spouse (as determined under section 71(c)),

but only to the extent such amounts exceed $6,000.

"(iii) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income. Clause (iv) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d) (3), (4), or (5), or 457(e)(10).

"(C) CERTAIN AMOUNTS DISREGARDED.—An amount is described in this subparagraph if it is—

"(i) the amount of losses from sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or business,

"(iii) the net loss from estates and trusts, and

"(iv) the excess (if any) of amounts described in subsection (i)(2)(C)(iii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).
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For purposes of clause (ii), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13206. PROVISIONS TO IMPROVE TAX COMPLIANCE.

(a) INCREASE IN PENALTIES FOR RETURN PREPARERS.—

(1) UNDERSTATEMENT PENALTY.—Section 6694 (relating to understatement of income tax liability by income tax return preparer) is amended—

(A) by striking "$250" in subsection (a) and inserting "$500", and

(B) by striking "$1,000" in subsection (b) and inserting "$2,000".

(2) OTHER ASSESSABLE PENALTIES.—Section 6695 (relating to other assessable penalties) is amended—

(A) by striking "$50" and "$25,000" in subsections (a), (b), (c), (d), and (e) and inserting "$100" and "$50,000", respectively, and

(B) by striking "$500" in subsection (f) and inserting "$1,000".

(b) AIDING AND ABETTING PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by striking "$1,000" in paragraph (1) and inserting "$2,000", and

(2) by striking "$10,000" in paragraph (2) and inserting "$20,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.
For Immediate Release

December 6, 1995

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval H.R. 2491, the budget reconciliation bill adopted by the Republican majority, which seeks to make extreme cuts and other unacceptable changes in Medicare and Medicaid, and to raise taxes on millions of working Americans.

As I have repeatedly stressed, I want to find common ground with the Congress on a balanced budget plan that will best serve the American people. But, I have profound differences with the extreme approach that the Republican majority has adopted. It would hurt average Americans and help special interests.

My balanced budget plan reflects the values that Americans share -- work and family, opportunity and responsibility. It would protect Medicare and retain Medicaid's guarantee of coverage; invest in education and training and other priorities; protect public health and the environment; and provide for a targeted tax cut to help middle-income Americans raise their children, save for the future, and pay for postsecondary education. To reach balance, my plan would eliminate wasteful spending, streamline programs, and end unneeded subsidies; take the first, serious steps toward health care reform; and reform welfare to reward work.

By contrast, H.R. 2491 would cut deeply into Medicare, Medicaid, student loans, and nutrition programs; hurt the environment; raise taxes on millions of working men and women and their families by slashing the Earned Income Tax Credit (EITC); and provide a huge tax cut whose benefits would flow disproportionately to those who are already the most well-off.

Moreover, this bill creates new fiscal pressures. Revenue losses from the tax cuts grow rapidly after 2002, with costs exploding for provisions that primarily benefit upper-income taxpayers. Taken together, the revenue losses for the 3 years after 2002 for the individual retirement account (IRA), capital gains, and estate tax provisions exceed the losses for the preceding 6 years.

Title VIII would cut Medicare by $270 billion over 7 years -- by far the largest cut in Medicare's 30-year history. While we need to slow the rate of growth in Medicare spending, I believe Medicare must keep pace with anticipated increases in the costs of medical services and the growing number of elderly Americans. This bill would fall woefully short and would hurt beneficiaries, over half of whom are women. In addition, the bill introduces untested, and highly questionable, Medicare "choices" that could increase risks and costs for the most vulnerable beneficiaries.

Title VII would cut Federal Medicaid payments to States by
$163 billion over 7 years and convert the program into a block grant, eliminating guaranteed coverage to millions of Americans and putting States at risk during economic downturns. States would face untenable choices: cutting benefits, dropping coverage for millions of beneficiaries, or reducing provider payments to a level that would undermine quality service to children, people with disabilities, the elderly, pregnant women, and others who depend on Medicaid. I am also concerned that the bill has inadequate quality and income protections for nursing home residents, the developmentally disabled, and their families; and that it would eliminate a program that guarantees immunizations to many children.

Title IV would virtually eliminate the Direct Student Loan Program, reversing its significant progress and ending the participation of over 1,300 schools and hundreds of thousands of students. These actions would hurt middle— and low-income families, make student loan programs less efficient, perpetuate unnecessary red tape, and deny students and schools the free—market choice of guaranteed or direct loans.

Title V would open the Arctic National Wildlife Refuge (ANWR) to oil and gas drilling, threatening a unique, pristine ecosystem, in hopes of generating $1.3 billion in Federal revenues — a revenue estimate based on wishful thinking and outdated analysis. I want to protect this biologically rich wilderness permanently. I am also concerned that the Congress has chosen to use the reconciliation bill as a catch-all for various objectionable natural resource and environmental policies. One would retain the notorious patenting provision whereby the government transfers billions of dollars of publicly owned minerals at little or no charge to private interests; another would transfer Federal land for a low—level radioactive waste site in California without public safeguards.

While making such devastating cuts in Medicare, Medicaid, and other vital programs, this bill would provide huge tax cuts for those who are already the most well—off. Over 47 percent of the tax benefits would go to families with incomes over $100,000 — the top 12 percent. The bill would provide unwarranted benefits to corporations and new tax breaks for special interests. At the same time, it would raise taxes, on average, for the poorest one—fifth of all families.

The bill would make capital gains cuts retroactive to January 1, 1995, providing a windfall of $13 billion in about the first 9 months of 1995 alone to taxpayers who already have sold their assets. While my Administration supports limited reform of the alternative minimum tax (AMT), this bill's cuts in the corporate AMT would not adequately ensure that profitable corporations pay at least some Federal tax. The bill also would encourage businesses to avoid taxes by stockpiling foreign earnings in tax havens. And the bill does not include my proposal to close a loophole that allows wealthy Americans to avoid taxes on the gains they accrue by giving up their U.S. citizenship. Instead, it substitutes a provision that would prove ineffective.

While cutting taxes for the well—off, this bill would cut the EITC for almost 13 million working families. It would repeal part of the scheduled 1996 increase for taxpayers with two or more children, and end the credit for workers who do not live with qualifying children. Even after accounting for other tax cuts in this bill, about eight million families would face a
The bill would threaten the retirement benefits of workers and increase the exposure of the Pension Benefit Guaranty Corporation by making it easy for companies to withdraw tax-favored pension assets for nonpension purposes. It also would raise Federal employee retirement contributions, unduly burdening Federal workers. Moreover, the bill would eliminate the low-income housing tax credit and the community development corporation tax credit, which address critical housing needs and help rebuild communities. Finally, the bill would repeal the tax credit that encourages economic activity in Puerto Rico. We must not ignore the real needs of our citizens in Puerto Rico, and any legislation must contain effective mechanisms to promote job creation in the islands.

Title XII includes many welfare provisions. I strongly support real welfare reform that strengthens families and encourages work and responsibility. But the provisions in this bill, when added to the EITC cuts, would cut low-income programs too deeply. For welfare reform to succeed, savings should result from moving people from welfare to work, not from cutting people off and shifting costs to the States. The cost of excessive program cuts in human terms — to working families, single mothers with small children, abused and neglected children, low-income legal immigrants, and disabled children — would be grave. In addition, this bill threatens the national nutritional safety net by making unwarranted changes in child nutrition programs and the national food stamp program.

The agriculture provisions would eliminate the safety net that farm programs provide for U.S. agriculture. Title I would provide windfall payments to producers when prices are high, but not protect family farm income when prices are low. In addition, it would slash spending for agricultural export assistance and reduce the environmental benefits of the Conservation Reserve Program.

For all of these reasons, and for others detailed in the attachment, this bill is unacceptable.

Nevertheless, while I have major differences with the Congress, I want to work with Members to find a common path to balance the budget in a way that will honor our commitment to senior citizens, help working families, provide a better life for our children, and improve the standard of living of all Americans.

WILLIAM J. CLINTON

THE WHITE HOUSE,
December 6, 1995.

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