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

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AND WORK OPPORTUNITY

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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This 19-volume compilation contains historical documents pertaining to P.L. 104-193, the "Personal Responsibility and Work Opportunity Act of 1996."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.

G. H.R. 1250, "Family Stability and Work Act of 1995," introduced March 15, 1995 (excerpts). This bill was offered as a Democratic substitute for H.R. 4/H.R. 1214. It failed to pass the House on March 23, 1995 by a vote of 96-336.

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.

    1. House Report 104-83, March 16, 1995

J. H.Res. 119, Resolution providing for further consideration of the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence. This resolution made in order H.R. 1214 as original text for amendment to H.R. 4.

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THE RECONCILIATION BILL

Mr. DOLE. Mr. President, 31 years ago this Friday, Ronald Reagan delivered a nationally televised speech that began his career in politics. The speech was called "A Time for Choosing."

Ronald Reagan made clear that the choice facing America was not one between right or left—rather it was one between up or down.

More than three decades later, this Congress now faces that same choice.

We can either go down the path of the status quo—a path that will lead 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 Whit 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 $187,000 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 more dollars to spend on college tuition or braces for their kids.

We will include in the RECORD during the debate how such 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 Hamphsire, 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 backs on children, on seniors, and on 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 falsehoods 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 will actually be strengthened, 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 legislation, the Speaker and I have invited President Clinton to join with us in giving the American people the fundamental change they want. Instead of sitting down with us, however, the President has flown around the country making speeches, playing politics, taking polls, and avoiding the work and making policy decisions. The President apparently believes that the American 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 slowing its rate of growth. He believes the American people are willing to sacrifice the future of their children and grandchildren so that the Government can continue its free spending ways, and he is wrong, and he will find out that he is wrong. And one of these days he is going to find out how to contact the majority leader in the Senate and the Speaker of the House, and when he does we are willing to sit down with the President of the United States.

But right now it is all rhetoric. It is all politics. It is all polls. It is all scaring seniors, scaring veterans, scaring children, and all a week before Halloween. Maybe by the time Halloween comes he will have everybody in a state of frenzy and we will be in that funk the President talked about. He said America is in a funk. America is not in a funk. They want fundamental change, and we are about to give them fundamental change. We would like to do it with the President's cooperation.

I am reminded of the words of Winston Churchill who said:

> We have not journeyed all the way across the centuries, across the oceans, across the mountains, across the prairies, because we are made of sugar candy.

I say to President Clinton: Mr. President, the American people are not made of sugar candy. They are far stronger and wiser than you think.

I also say that this Republican Congress is not made of sugar candy. We promised we would balance the budget, and we will. We promised we would cut taxes, and we will. We promised we would preserve and protect and strengthen Medicare, and we will. We promised we would have welfare reform, and we will. October 1995 is a time for choosing, and I invite all Senators on both sides of the aisle and all Americans, regardless of their party, regardless of their philosophy, to stand with us as we move our country up to a future of unlimited hope, freedom, and opportunity. That is what this debate is going to be all about.

There will be some policy differences, obviously—some legitimate policy differences, but there will also be a lot of politics, and we prepared for that. And I just urge my colleagues on this side of the aisle, this is the most historic moment in my memory in the Congress of the United States. And I have been here for some time. Never before have we tried to bring about such fundamental change. It is going to be up to us. We have the majority. It is our responsibility. And we need 53 Republicans standing together when the final vote comes.

So I urge my colleagues to pay attention. I know that both Senators DOMENICI and EXON will be explaining in detail all the different amendments and their opposition or support for the different amendments.

EXHIBIT 1

[From the Washington Post, Oct. 17, 1995]

THE NO-CUT BUDGET

(By James K. Glassman)

Despite what you've read and heard, the Republican budget—now moving toward passage in its final, "reconciliation" form—does not cut total federal spending, nor does it cut tax revenues. Not 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 $2.6 trillion.

Revenues will increase by $3.3 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 nomenclature of Washington, a cut is a reduction from a previously projected increase.

The real spending and revenue numbers show something quite different: that the Republican revolution is more modest than both Republicans and Democrats claim.

During the seven years from 1989 to 1995, federal spending totaled $9.5 trillion. During the next seven years, the congressional budget agreement calls for spending of $12.1 trillion.

As for revenues: During the seven years just past, the government collected $7.9 trillion 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 gains that will reduce expected tax revenues by $245 billion.

If Congress did not make any changes to the budget, spending would rise by 37 percent and revenues by 44 percent, the Congressional 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 nothing is done, CBO says the annual deficit will continue to rise in 1996 and each successive year, reaching $256 billion in 2002.

Any business or household facing such a prospect would quickly reduce its spending. 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 aggregate numbers I've just cited—1989-95 vs. 1996-2002—are probably the best way to look at budget changes. But, in case you think I'm pulling a fast one, let's look simply at two specific years: the one just past (fiscal 1995) and the one in which the congressional resolution requires a zero deficit (fiscal 2002).

In 1995, federal spending was $1.5 trillion. If current policies were to continue, spending, according to the CBO, would be $2.1 trillion in 2002. That's an increase of $600 billion, or 40 percent. Under the GOP plan, spending will rise between 1995 and 2002 by $358 billion, or 24 percent. (That's slightly ahead of inflation if prices increase 3 percent annually.)

Only in Washington would a $358 billion increase be called a "cut." In fact, Republicans who want to sound as if they're making big changes and Democrats who want to frighten the public both say that the GOP budget "cuts" total about $1 trillion. This absurd figure is derived by taking the difference between the CBO's projection and the Republicans' proposed spending for each year from 1996 to 2002, then adding all seven numbers up.

Consider Medicare. Politicians talk about $271 billion in cuts, but actually, under the GOP plan, spending in 2002 will be $86 billion higher than in 1995, an increase of more than 6 percent annually.

The real question for voters assessing the GOP budget is where the additional $358 billion in federal spending in 2002 is going. The answer is entitlements: Social Security will cost $146 billion more in 2002 than in 1995, Medicare (for the elderly) will cost $86 billion more and Medicaid (for the poor) will cost $35 billion more.

Miscellaneous entitlements (food stamps, the earned income tax credit, military retirement, etc.) will rise $63 billion. Add interest on the national debt (there's nothing we can do about that one), and the total additional spending exceeds $358 billion.

By deciding to preserve and increase these entitlements, Congress had nothing left for increasing the "discretionary" side of the budget, where outlays will total $515 billion in 2002, down from $548 billion in 1995.

Defense comprises most of discretionary spending, and it will be flat at roughly $270 billion. Transportation spending will fall from $39 billion to $32 billion; education and training will drop from $39 billion to $35 billion; foreign aid and other spending on international affairs from $21 billion to $15 billion.

Intelligent folks can differ on where to spend the government's money. Maybe defense should be cut and transportation increased.

But once the nation has decided to balance the budget, keep Social Security intact and pare back expected tax revenues slightly (and voters made those decisions last November), the choices are pretty limited.

President Clinton knows this very well, but with a devotion to the first-person singular exceeded only by Sen. Phil Gramm's, he said on Friday, "I will not let balancing the budget serve as a cover for destroying the social compact."

The truth is that, if Congress's budget becomes law, the social compact will actually be strengthened. Not only will the government keep its commitments to the elderly and the poor on health care, it will also meet an even more important obligation to the public that it abrogated 30 years ago—to spend no more than it takes in.

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 1996.

The Senate proceeded to consider the bill.

Mr. DOLE. I ask unanimous consent that Senator DOMENICI be recognized for up to 60 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 this.

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 of 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 of our 10. Is that right?

Mr. DOLE. We would like to have you give up 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 before final 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 amendments following that. And I know that is being worked on, and we hope to reinvestigate 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 no objection.

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

Who yields time?

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

Karen Bilton, Lisa Cieplak, Jim Hearn, Keith Hennessy, Bill Hoagland, Carol McGuire, Anne Miller, Roy Phillips, Denise G. Ramonas, Cheri Reidy, Ricardo Rel, J. Brian Riley, Mike Ruffner, Melissa Sampson, Jennifer Smith, Austin Smythe, Bob Stevenson, Beth Wallis.

MINORITY STAFF

Amy Abraham, Annanias Blocker, Bill Dauster, Kelly Dimock, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Phil Karsting, Jim Klumpner, Daniela Mays, Sue Nelson, Jon Rosenwasser, Jerry Slominski, Barry Strumpf.

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, 1 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 subject 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 to 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 in Nebraska.

Mr. DOMENICI. Before the Senator proceeds, will 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 20 after, 25 after. 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 amendments. And we have as much stamina, I think—I do not know—as much stamina as the other side of the aisle.

Mr. EXON. And more votes.

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 are 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 that side 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 exceed that 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 will pay and pay and pay 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 conference report on the budget resolution which begat 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 cuts 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, during 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 finding out what is in 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 resolutions and budget reconciliation bills, Senators can all too easily lose sight—lose sight—of the ordinary Americans. The stage overshadows the people on it. In this same vein, my colleagues on the other side 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 I see 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 pitted 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 do 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 cuts account for more than twice that percentage of the lower spending in the Republican approved budgets over the next 7 years. Not withstanding Mr. Gingrich's appeal, the 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 the year 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, sounds a different note, and it is definitely sour.

Last week, the Joint Committee on Taxation confessed that families making up to $30,000 a year—and that is about half of all taxpayers—would actually see their taxes go up under the Republican tax plan. Yes, Mr. President, their taxes would go up. They would pay more for increased Medicare premiums and deductibles. They would pay more for new student loan fees. They would pay more for higher taxes on State and local employees. They would pay more for higher contributions for GI bill benefits.

What about the other side of the gilded reconciliation bill? The Treasury Department estimates that nearly half—nearly half—of the Senate's tax breaks would 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 pitting young against old and rich against the middle class, but our rural areas against urban industrialized centers 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 third, forcing many to close 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. Net farm income will decline by $9 billion over the next 7 years. And for what, Mr. President? Once again, for the almighty tax breaks for the wealthy.

The evidence clearly keeps mounting. It is compelling. It is heartwrenching. This reconciliation bill is wrong for our great Nation. For the good of our Nation, it should be defeated. At a time when we should be formulating a balanced budget that unites America and unites its people, this one 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 toward 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.

Mr. 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, Lillian Hellman, once commented: "I cannot and will not cut 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.

EXHIBIT 1

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 20, 1995.

Hon. J. JAMES EXON,
Ranking Minority Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR: Pursuant to Section 205(a) of the budget resolution for fiscal year 1996 (H. Con. Res. 67), the Congressional Budget Office on October 18 provided the Chairman of the Senate Budget Committee with a projection of the budget deficits or surpluses that would result from enactment of the reconciliation legislation submitted to the Budget Committee as of that date. As stated in the letter to Chairman Domenici, CBO projected that there will be a total-budget surplus of $10 billion in 2002, using the economic and technical assumptions underlying the budget resolution, and assuming the level of discretionary spending specified in that resolution. If the estimated Medicare savings in 1996 through 2002 resulting from the legislation submitted by the Finance Committee were excluded from the calculation, CBO would project a deficit of $82 billion in 2002. Similarly, if any other savings submitted to the Budget Committee were excluded from the calculation, CBO would project a higher deficit.

CBO also stated in the letter to the Chairman that the estimated deficit reduction would likely reduce federal interest costs and increase revenues by an amount similar to the fiscal dividend that CBO discussed in its August report, The Economic and Budget Outlook: An Update. If deficit reduction in each year were lower by the amount of the estimated Medicare savings (and the associated debt service), the fiscal dividend would likely be lower than the estimated CBO published in August.

If you wish further details on this projection, we will be pleased to provide them. The staff contact is Jim Horney, who can be reached at 226-2880.

Sincerely,

JUNE E. O'NEILL.

EXHIBIT 2

[From the New York Times, Oct. 22, 1995]

CLASS CONFLICT IN WASHINGTON

How touching it was for House Speaker Newt Gingrich to appeal for brotherly love at the end of the titanic debate over Medicare last week. "We want no class warfare," he declared. "We want no conflict between generations." Even by Mr. Gingrich's standards, this was a remarkable statement. The Republicans are rushing through Congress the greatest attempt in modern history to reward the wealthy at the expense of the poor. They are also sacrificing the health needs of the elderly to pay for a tax cut for the affluent. Incredible. Mr. Gingrich was accusing the *Democrats* of formenting class and generational resentments by pointing this out. President Clinton can do no less than veto the Republican legislative package that is roaring toward passage in Congress.

We have long argued that Medicare, the health insurance program for elderly Americans, is in need of reform. Many Republican ideas for introducing competition into the health care system and forcing providers to deliver care more efficiently are sound. But the cuts being pushed through Congress are so big they threaten to dry up money for medical training, devastate nursing homes and drive hospitals and doctors away from taking care of Medicare patients. Right now, Medicare makes up less than 12 percent of the Federal budget. But Medicare cuts account for more than twice that percentage of the lower spending in the Republican-approved budgets over the next seven years. Notwithstanding Mr. Gingrich's appeal, the facts clearly demonstrate that health programs for the elderly are bearing a disproportionate share of the austerity pushed by the Republicans.

The charge that Democrats have been playing on American resentments has also been sounded by Bob Dole, the Senate majority leader, who recently accused Mr. Clinton of encouraging "envy and class warfare." He made it sound almost Marxist to discuss which classes gain and which lose in any legislation. True, the Democrats are playing the politics of winners and losers,but their criticisms are rooted in a certain reality.

It was the Republican-controlled Joint Taxation Committee that acknowledged last week that families making up to $30,000, about half of all taxpayers, would actually see their taxes go up under the tax package heading toward approval in the Senate. The reason is that the Republicans are insisting on scaling back the earned-income tax credit, which goes to low-income workers to keep them out of poverty. The Treasury Department estimates that nearly half the Senate's $43 billion in tax cuts, meanwhile, would go to the 12 percent of Americans in families earning $100,000 or more.

On the spending side, it takes ideological blinders to argue that Republicans are not waging their budget wars on the poor. The budget bills racing through Congress embody a gargantuan $1.1 trillion in spending cuts over the next seven years, according to the nonpartisan Congressional Budget Office. Out of this sum, the Center on Budget and Policy Priorities, a liberal group, estimates that welfare, Medicaid, food stamps, housing and other programs for the poor are being cut by 37 to 47 percent. That is far more than seems fair given that only 21 percent of the Federal budget is spent on the poor.

Another way of looking at this is to see how the Republicans are approaching the two biggest health care programs in the country. Medicare is for everyone and Medicaid is for the poor. Both have been growing out of control and have to be reined in. But cost estimates of the Congressional Budget Office show that Medicare is being kept by Republican legislation at a 6.4 percent growth rate in the next several years and Medicaid is being kept as a 4 percent growth rate. There is no way to see this except as a deliberate effort to inflict greater hardship on those delivering health care to the poor.

The Republican Congressional handiwork of the last week provides a reminder of a grim truth. It is much easier to destroy something than it is to create it. Reform of many of these programs is surely in order.

But reform is certain to be undermined if it is coupled with a reactionary redistribution of government resources.

In the coming weeks and months, the House and Senate will be struggling to reconcile their differences and put them in one massive piece of legislation, possibly attaching it to a measure keeping the United States out of default. Mr. Clinton must not be rattled by the threat. If he stands firm, the Republicans will be forced to scale back their assault and confront the reality that a huge and regressive tax cut is inappropriate as a matter 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.

Mr. President, to all those interested in today's debate, let me suggest the other side, including my good friend, Senator EXON, plays very loose with words like "truth" and "right." As a matter of fact, before this debate is finished, I believe most of the contentions about the poor and about the rich will be dispelled and be disposed of. I think the Joint Committee on Taxation will acknowledge before this day is out that their estimates of the tax bill were wrong and based on erroneous assumptions. I believe we will prove that this is a fair budget.

Frankly, for those who think only of 10 days and of the next election, obviously they can come up with something much easier. But we are not talking about 10 days and the next election; we are talking about 10 years, we are talking about 50 years, and we are talking about our children and grandchildren.

Anybody who does not want to do that and wants to just say to America, "Don't worry about it, seniors, don't worry about it; we have amendments that will leave everything status quo," just listen. That is how America will fall. That is how America's money will become worthless. That is how interest rates will skyrocket. That is how our standard of living, which is already in jeopardy for a lot of things, will come falling and tumbling down. Because if we do not tell the truth about the fact that we are incurring debt at such an outrageous amount, we are saying we are talking about only 10 days or 6 months, do not worry about 10 years, do not worry about the future, worry about politics.

I believe when we are finished and when the President of the United States finally agrees to a real budget, the seniors are going to say, "What was this argument all about?" Medicare will be intact. Seniors will be taken care of across the land and, yes, they may be even surprised. They may decide to join some institutions that will deliver services differently, and they may save money. As a matter of fact, they may find in the next 2 or 3 years that they get more care and better care than under the Medicare Program we have today.

Let me dispose of two items. The distinguished Senator from Nebraska says we are doing all these things to the poor people of the country. I assume he is suggesting that we are cutting food stamps, child nutrition, AFDC, and that he really means they are being cut.

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, $211 billion; the next year, $221 billion; the following year, $235 billion. In summary, by the year 2002, these programs, which today are at $195 billion, will be $253 billion. Now, that is not contending anything. It is merely stating the facts 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 they had been duped. He did not want all those taxes you all 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 that is not only bunk, he actually asked for $360 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 the Budget Committee 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 to people that we cannot afford?

To put it another way, a modern 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 seems 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 have to do that. It is estimated, Mr. President, that every child born today will spend at least $100,000 in new income tax to pay just the interest on the national debt. What kind of legacy is that? Is that a legacy that should permit us to hide from reality and 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 everything alone. Whatever you are 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; $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 stop it.

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 threats, as you might want to issue them day by day, do not get you 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 resolution 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. Be prepared 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 statements made to 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 reserve any of my time.

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

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 floor listening to 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 each committee does 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 where the tax cuts really go, 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 that money will go to middle-income Americans, making $110,000 and under. We will show that unequivocally, and I believe the Joint Tax Committee will be saying that, too.

Mr. EXON addressed 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, we are 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 us on 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 those opposed to it. That is the privilege 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 instead of 5 or 6 percent.

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, particularly on the spending side, 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 debt, 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 hope the American people who listen to this, who listen to the rhetoric that has been made about this budget plan, 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 had put on.

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 controlled in the rate 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. There is only one 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. 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.

I think any objective review of the question of the deficit will indicate that.

Second, I observe that there were valiant efforts made during the 1980's, a few by this Member. I am not sure I describe my efforts as valiant but they

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 is investing it, somebody else is managing it; or in a service job where the economy needs only $10,000 or $15,000.

We are also providing, in this bill, tax changes that are meaningful in ending the marriage penalty for nonitemizers. 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 supported for many years. I am glad to see those efforts bear fruit, and I compliment the new chairman of the Finance Committee, Senator ROTH, for getting that job done.

The PRESIDING OFFICER. 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 time on that later on.

Mr. MOYNIHAN. Mr. President, I yield myself the balance of the opening 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. Indeed, that happened. We forecast it. 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 Wildavsky, 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. We are 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 cut taxes. Well, no. No, Mr. President. I correct myself. 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 reductions 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 American taxpayers will have a tax increase; 49 percent will have a tax decrease. How we can do this, and then talk about fiscal responsibility eludes this Senator.

Now a second table from the Treasury, showing the actual distribution of the tax cuts and tax increases across the population of taxpayers, by income. It shows a tax increase for taxpayers with incomes of $30,000 or less. I should point out that according to the analysis of the Joint Committee on Taxation, 51 percent of American taxpayers make $30,000 or less. Once we get above $30,000, then we see tax cuts for everyone.

I am embarrassed for my friends on the other side of the aisle. This is a caricature. A comic Democrat might have come along 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 precincts. The Senator said what Laurence Tribe has said about the accumulation of debt. I taught at the same 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 1970's, at the end of the administration of President Carter, the national debt was in the neighborhood of $800 billion. That was at the end of nearly two centuries in this Republic. After 15 years it is now approaching $5 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 forbear to use the term—of $500 billion. And we brought a deficit, which in that year, in fiscal 1992 was $290 billion. We started a glidepath down to where this fiscal year just concluded, the deficit will be somewhere between $160 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 are running very high—because in 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 enough that 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 achieved deficit reduction of $600 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 previous 4 years. 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 just happen. It was made to 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 "unforgivable." 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 of Representatives.

In our hearings 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 55th month of expansion; we are practically at full employment; inflation has practically disappeared. Business investment is at the highest rate in 30 years—investment savings is at the 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.

One Senator 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 Contract 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 things we are 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 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's institutions, we are decimating their finances in order to give a tax cut to people with incomes over $200,000.

Sir, I believe my time has expired.

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

Mr. MOYNIHAN. I thank the Chair for its courtesy, and I hope I will have the attention of my friends on the other side of the aisle. It is not too late to do the right thing.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

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

The PRESIDING OFFICER. Thirty minutes of the 1 hour remains.

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 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 less 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 $100,000 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.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ABRAHAM. I would yield myself 1 additional minute.

In addition, we have an adoption credit, marriage penalty relief, student loan interest deduction, individual retirement accounts, and countless other provisions in the bill that are aimed at people in the income categories I have already referenced, primarily people making under $75,000 a year and to a large extent, approximately 85 percent of this tax cut to people making less than $100,000 a year. It is a middle-class tax cut.

That is why yesterday, in describing the reconciliation bill, the Washington Post in referencing the tax sections described it as family friendly. It is family friendly to middle-class families, to people who have felt the squeeze for so many years. That is why it is part of this legislation and why we are supporting it.

Mr. President, at this time I yield the remainder of our side's time to the Senator from Delaware, the chairman of the Finance Committee.

ORDER FOR MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. MOYNIHAN addressed the Chair.

Mr. ROTH. Mr. President, I would like to make a further unanimous-consent request to finish my statement as in morning business for up to 10 minutes, and have my remarks appear in the RECORD as uninterrupted.

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

Mr. ROTH. I would say, morning business will be until 1:15.

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

The Senator from Delaware.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that Mr. Andrew Eschtruth, a detailee to the Senate Finance Committee from GAO, be granted Senate floor privileges for the duration of the Senate's consideration of the budget reconciliation legislation.

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

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 will 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 will never reach his port."

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. For the first time 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 changed 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 more power 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 that assistance?" And for the 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.

As I watched this 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 indicated 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 most 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 certain 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. He has proposed his own child credit, a credit of up to $800 per child. He has stated 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." End of the President's quote.

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 to cure social ills over the last three decades could have bought 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 cannot afford business as usual. 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 change the system.

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 to strengthen Medicare.

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

> . . . the Hospital Insurance Trust Fund (Part A) continues to be severely out of financial balance and 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. Moreover, 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 larger fiscal problems 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 the Medicare Program, to save, to strengthen it, so that Government can meet its contract with the American people. Similarly, there has been no question concerning the need to control runaway Government spending. Government has grown accustomed to living beyond its means.

This must change, and reform efforts must be real. They must maintain the agreements Washington has made with the American people. They must see that the needy are cared for. They must keep the contract that exists between the Government and our retired constituents concerning Medicare. They must ensure the integrity of the program for a sufficient period of time to allow us to chart the distant future of that program so it can absorb the baby-boom generation.

And in doing all this, our efforts at reform must also create conditions, an environment, if you will, 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 base by pandering to that bureaucracy.

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 not 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 even our competitors in our rate of personal savings. Incidentally, this, according to Federal Chairman Alan Greenspan, is one of the most pressing problems confronting our Nation economically.

At the moment, the Medicare Program stares into the abyss of bankruptcy, and this is why many of our

seniors are living with fear and uncertainty. But not just our seniors: fear and uncertainty grip their children and grandchildren because they know that, left unchecked, entitlement spending is growing so fast that, along with interest on the national debt, it will consume almost all Federal revenues in the year 2010, just 15 short years from now. Left unchecked, by 2030, Federal revenues will not even cover entitlement spending alone.

Though we live in a Nation of infinite possibilities, we are, of course, a land of finite resources. At the moment, the Federal debt is approaching $4.9 trillion, deficit spending is well over $150 billion a year, and the fact is, Medicare, Medicaid, and earned income tax credit are some of the fastest growing entitlement programs on the books. Strengthening and restoring the integrity of these programs will not only benefit those who should appropriately receive them, but it will also help us balance the budget, and this, Mr. President, is what the vast majority of Americans not only want but demand.

A balanced budget is necessary for economic security. A balanced budget would increase job opportunity. Some forecast that over 6 million jobs would be created if the budget were balanced. Interest rates would be lower. They would fall by almost 2 percent, some say even higher. And Americans everywhere would enjoy a higher standard of living. There would be a reduced burden of debt on our children and our grandchildren, and people would be able to keep more of their hard-earned money rather than sending it to Washington.

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 back within our budget, within our ability to pay for them. It is easy to see how they got out of control.

Simply put, these programs escape the discipline of the annual budget process. Increased entitlement spending 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 are 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 created in 1965 when the average American 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.

This is where we are now, Mr. President. Looking into the future gives us even greater reason to make the necessary changes we are proposing. The chart, which we will bring out a little later, demonstrates just how important it is that we begin now to make necessary changes in entitlement programs.

Today, there are less than 40 million Americans who qualify to receive Medicare. By the year 2010, the number will be approaching 50 million. By 2020, it 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 program. 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 similar growth over the next decade. Because of this rapid growth, 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. Likewise, Medicaid is out of control. This program alone is scheduled to grow at an annual rate of 10.4 percent between fiscal year 1995 and 2002, devouring both Federal and State budgets. Already, Medicaid consumes about 20 percent of State budgets, exploding from $15 billion in 1980 to a projected $180 billion in 2002.

These are serious concerns, and keeping in mind the demographics that I cited earlier, it is easy to see that without real change in policies and programs, there is no way the Federal Government will meet its obligation. There is no way that we can offer assurance to even the next generation of retirees that they will have coverage under Medicare and Medicaid.

The year 2002 is only 74 months away. However, as I have said on many occasions, I am an optimist. I am an optimist because we know what works. We know the right kinds of policy and program changes that need to be made, changes that will allow Medicare and Medicaid to meet their current obligations while at the same time saving these programs for future beneficiaries.

We know how to restore sound financial practices to the Federal Government, practices that can strengthen the economy, create an environment for employment growth and an environment where Americans are encouraged to work, save and invest. And achieving these conditions should be our primary responsibility.

Towards this end, we must see our proposal in this budget reconciliation process in its entirety, for its overall balance and how all components work together to benefit Americans at all ages and in all income groups. To single out one reform in our proposal, without looking at the others, is to do a great disservice to what this reconciliation package offers.

It is balanced, it is workable, and it is long, 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 obviously 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 thing. 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 more 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 sure 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. And we understand one fundamental truth about reform—a truth stated eloquently by Vaclav Havel:

> The more half-measures we take, and the longer they drag on, the greater the sacrifices will be, the longer they will have to be made, and the more pointless sacrifices will have to be piled on top of those that are unavoidable.

We must be resolved; 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;

Second, we strengthen and preserve Medicare and Medicaid, thus allowing these two important programs to continue to protect Americans into the future;

Third, we reform welfare; and finally, once we show that the budget is balanced;

We create an environment for economic expansion through tax cuts that

offer relief to our families and encourage Americans to work, to save, and to invest.

To give a little history, the EITC was a bipartisan program, created to offset the sting of payroll taxes on working families with children. The fact is, each dollar Government taxes creates a disincentive to work, while each dollar that people keep for themselves is an incentive to work. History has proven this point. The economies of nations that have cut taxes have thrived, while those nations who have increased taxes—even to the point of taking everything the people earn—have fallen into ruin.

The EITC was to create incentives for low-income parents to work. It was that simple. But as they say about too much of a good thing becoming dangerous, such is what happened to this once-well-intended program. Over the years, the EITC has been expanded by a welfare-oriented Congress into another Federal handout. And today, some 85 percent of the EITC is a Federal outlay paid directly to individuals. No longer do individuals need to have families or children to qualify; no longer does the EITC encourage work, as it once did; no longer is the program fair and cost-effective. Much of the EITC cannot even be considered tax relief because those who receive a direct payment from the Government pay no income taxes at all. Make no mistake about it, most of the EITC is a welfare check.

Beyond this, the EITC is plagued by fraud and abuse. It sports a fraud and error rate between 24 and 40 percent, making it the most fraudulent welfare program on the books. Though the administration has worked to reduce these high rates, there is no evidence that current rates are below double digits. Many of those who commit fraud are not even legally able to work in the United States. And the fact is, since the program's inception, American taxpayers have lost $25 billion to fraud, waste, and abuse in the program. The GAO estimates that if this kind of fraud continues over the next 5 years, the EITC could waste another $37 billion. We can't afford this.

We need to get the program back to its original purpose: to help families with children offset the sting of payroll taxes. And that is exactly what we do with our proposal. We focus the program on the population for whom it was originally intended. We return it from being just another welfare program to where it belongs as a legitimate tax break for lower income working Americans with children.

Our reforms will place an important degree of control on this program. They successfully address the problems of rampant growth, fraud, and abuse. The key phrase here is "controlling growth." Remember, EITC will continue to grow. It will continue to meet the needs of those most vulnerable among us.

According to the Joint Committee on Taxation, families with children, who now receive the maximum earned income tax credit, will continue to receive a larger earned income credit in the future. When combined with the $500 child credit and marriage penalty relief—issues that I will speak about in a minute—low-income working families will be better off under our bill than they are today. Finally, we will continue to spend in excess of $20 billion on the EITC, keeping it as a significant program for the working poor.

MEDICARE

Our second major objective with the proposal we are introducing is to strengthen, preserve, and protect the Medicare system—not only for those who depend on the system today, but for those who will need Medicare tomorrow. We accomplish this by allowing the program to grow at about twice the rate of inflation, and by introducing choice in the system. In this way, seniors are guaranteed continued coverage as well as the ability to choose those plans and health care providers that best meet their needs.

In our proposal, Medicare spending increases form $178 billion in 1995 to $286 billion in 2002. Average spending per beneficiary grows from $4,800 to $7,000.

Our proposal controls runaway costs by introducing choice into the system, giving our seniors the ability to remain in the current fee-for-service plan, if that is what they want. On the other hand, we also offer them an unlimited number of health care plan options that they may choose to better meet their needs. We call this Medicare choice, and it includes, beyond the current 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. It also allows for seniors to join high deductible medical savings account plans, union or association plans, and, in fact, 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 business, it's 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 plan 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 longterm. It is no surprise that the private sector has been much more successful at controlling health care costs, with innovative programs based on 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 projctions—projections that keep Medicare solvent 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 goes 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 health care fraud. We also offer a number of new tools to assist investigators and prosecutors in attacking this problem. The CBO has estimates that our provisions in this area will save the program more than $4 billion over 7 years.

Under our program, 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 total $300 billion in the year 2005. The CBO states, "the HI trust fund would meet the Trustees' test of short-range financial adequacy." In other words, for the next 10 years, the HI trust fund balance, at the end of every year, will be more than enough to pay Medicare benefits for the following year.

More importantly, using the CBO's estimates through 2005, our Finance Committee staff, in consultation with the Office of the Actuary within the Department of Health and Human

Services, estimates that the Medicare Hi trust fund will be solvent through 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 unsustainable growth rate 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 moving the 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 and excessive regulation from Washington. Governors have been asking 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 of the most vulnerable populations: low-income pregnant women and children, the disabled, and the elderly. There will also be protection from nursing home costs against impoverishing spouses living at home. Likewise, 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 partnership between the Federal Government and the States. However, the Federal Government in recent years has effected what can only be seen as a takeover. 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 release the choke hold.

Medicaid now consumes 20 percent of State budgets—20 percent. That means fewer dollars for education, for fighting crime, and rebuilding infrastructure.

Since 1990, the number of Medicaid recipients have increased by nearly one-third, as the current law has created over 70 different ways for people to become eligible for benefits. Promising more benefits for more people plus using the political system to negotiate supply and demand is a prescription for failure. The price for this now includes annual deficits of up to $200 billion and a second mortgage on the future which our children and grandchildren will be forced to pay.

Today we change these dynamics. Today business as usual is over.

The reconciliation package we offer allows us to meet the needs of low-income individuals, while at the same time controlling costs, improving the program, and working toward a balanced budget. Under our proposal, Medicaid spending continues to grow, but at a slower, more predictable rate. The money is given to the States with the flexibility to design effective and innovative programs—programs to meet the individual needs of their low-income citizens.

States can cover individuals and families with income below 250 percent of the Federal poverty level—that's $31,475 for a family of three.

What we get away from are the thousands of pages of Federal mandates that stifle creativity and our States' ability to develop programs that are both efficient and effective. Under our proposal, we repeal all mandates. We allow States to standards and provider payment rates. And we no longer require Federal waivers to implement many of the innovative delivery systems that have proven to be so successful in the private sector. In fact, we encourage States to combine programs and experiment. However, as a safeguard, we ask States to develop a State plan and to submit annual reports and independent evaluations as well as provisions for fighting fraud and abuse.

As under current law, the Federal Government will match State funding, up to an aggregate cap. Under this proposal, total Federal Medicaid spending will continue to increase over the period 1996-2002. In this period, the Federal Government will provide $776 billion to the States to meet the needs of poor children, the elderly, and people who are disabled. This is the equivalent of half of the total of today's Federal budget.

Between 1995 and 2002, total Federal spending on Medicaid will still grow by over 40 percent.

Mr. President, the States will make these reforms work. Federal funding will continue to increase while we provide the States with control over how these funds will be spent. After 30 years of Federal control, it is time to put the State in charge. Capping Federal spending will allow the States to enforce fiscal discipline. They will clearly know that the deep pockets of the Federal Government are not bottomless.

With firm control over these funds, we will unleash the creativity of the States in meeting the needs of the low-income citizens. The States will be able to expand managed care without asking permission of the Washington bureaucracy. Coupled with the welfare reform package just passed, the States will be able to experiment with ways to move families off welfare and into work. The States will be able to design health insurance coverage so that the loss of Medicaid will no longer be a barrier to leaving welfare.

The States will plan, design, and implement Medicaid reform which will meet their own unique needs in ways Washington has not even started to think about. Taxpayers and beneficiaries alike will benefit from Medicaid reform and from achieving a balanced budget.

TAX REFORM

These are important reforms. Without them, the Medicare trust fund will become insolvent within a few years, and Medicaid will eat away at our children's future, forcing Federal and State governments to borrow money for generations yet unborn. According to University of California economist Alan Auerbach, if current spending trends and benefit formulas continue, "the tax burden would be very close to absorbing all the lifetime income of future workers."

To escape from this, we must prepare to move quickly and successfully beyond our first objective of passing the budget resolution to embrace what should be our second, adopting initiatives that create an environment for economic growth. The only way to break out of deficit spending, without cutting off essential services and forfeiting on the contracts the Federal Government has made with our senior citizens, is to renew healthy economic growth—growth which is above the 2.3- or 2.5-percent range currently projected by official forecasting agencies.

This environment will be created only as Government adopts real tax reform—reform that shifts the bias against savings and investment in the current Tax Code to a system that encourages saving and investment over consumption. Among the means to tap into the consumption base are: The flat tax, a national sales tax, or an expanded IRA.

While some have emphasized the differences between these three plans, they are grounded in the same economic concept of taxation, and I am pleased to see their growing acceptance among Americans. Ultimately some kind of compromise, possibly including elements from all of them, should be possible.

The current income tax system has not only undermined economic growth, it has also undermined the economic position of American families. We must act to provide tax relief for families that are already facing intense pressures on other fronts. It is my desire to provide tax relief in the context of the current reconciliation package, but I also believe we must not overlook the opportunity to provide the additional tax relief in future tax reform, financed by continued restraint in Federal spending growth.

The tax relief offered in this reconciliation package is very much in the realm of current possibilities. We offer a $245 billion tax cut which goes 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 more 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—and it addresses a genuine problem that is only going to get worse. What Democrats have [on the other hand] is a lot of expostulation, TV ads and scare talk.

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

Under the bill we propose today, using 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 promise made 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. Well, you cannot have it both ways. You are either working for the kinds of 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—with 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 greater stability 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 employment 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 overbearing estate 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 while making room for 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 our economy has to 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.

The PRESIDING OFFICER. The Senator from New York.

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

Mr. MOYNIHAN. 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 whatever amount of 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 to 1:30 and that the time be equally divided?

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 endeavors here today.

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—as 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 and 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 Senator from New York.

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 history. If 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.

If 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 even 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, and 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 work before us is difficult. But it is nothing more than most Americans expect.

We have come to a time that is unique—an authentic moment of decision. It is a moment to act worthy of our words, and to keep faith with the future.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Minnesota.

NO COMPASSION

Mr. WELLSTONE. Mr. President, I want to talk about an amendment we are going to have coming up on Medicare. Just for the record, let me briefly respond to the Senator from Indiana. In all due respect, I do not see this compassion. I see $35 billion of cuts in nutrition programs.

I had an amendment on the floor of the Senate that asked my colleagues to go on record saying that if, as a result of this reconciliation bill with its cuts disproportionately targeted on vulnerable children in America, there was more hunger and there was a situation where more children went without medical coverage, that we would revisit this question next year and take corrective action, and I could not get that sense-of-the-Senate amendment adopted. I do not see too much compassion in that vote, Mr. President.

Mr. President, I hope we start this debate soon on the Medicare. I want to start out by responding to my friend from Iowa. I just quote my friend from Illinois, Senator SIMON. He has said it once, twice, 10 times, that 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 figure for the 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 make 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 the benefits of this for rural Iowa or rural Minnesota. I say to my colleague from Iowa, understand that in your proposal you have reimbursement to hospitals, rural hospitals, 2.5 percent less 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, they have a disproportionate amount of their patient mix—60 percent, 70 percent.

What I am saying to people watching this debate 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 the profit margin. They have a large percentage of the population that are elderly, who depend 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 physician 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 make 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, will be 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, they will 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-degreed, 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 that. That 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 this particular 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 him 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 had to say. I have these 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, not to include any day 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 day the Senate is not in session making changes in legislation within that Committee's jurisdiction to eliminate any reductions in Medicare beyond the $89,000,000,000 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, and sometimes, obviously, 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 a very straightforward proposition with our amendment to save Medicare.

This amendment calls for sending the Medicare part of this package 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 and simply to pay for tax breaks tilted in favor of the most affluent, comfortable households in this land.

The reconciliation bill on the floor cuts Medicare by $270 billion over 7 years. We all know that now.

We have all been told that this will save Medicare, keep it solvent, and, indeed, make the program stronger. Wrong, wrong, and wrong. The professional experts in charge of keeping the books for Medicare say exactly $89 billion is needed to keep Medicare solvent for the same number of years.

Hospitals, doctors, nurses, and other health care providers in every one of our States believe with absolute certainty that cuts of this size will disintegrate the kind of health care coverage that 30 million American senior citizens have counted on for over three decades.

When the average income of senior citizens is, in fact, $17,750 on a national basis, and closer to $10,700 in my own State, and when they pay 21 percent of their income for health expenses as it is now—that is, unless they are over 84, in which case the figure rises to 34 percent—no wonder they are incredulous, no wonder they are petrified to hear their Medicare is being used to pay for tax breaks, tax giveaways to far, far wealthier Americans and every imaginable kind of corporation.

I have no way that I can think of to explain to the 330,000 Medicare beneficiaries in my State why their Medicare deductibles will double, their premiums will skyrocket, and West Virginia hospitals are threatened with the possibility of losing $25 million in 1996 and more than $681 million over the next 7 years.

I keep saying I wish this were some kind of a dream. I keep expecting to wake up and find something different. I wish this were some kind of a dream. But the threat is real. It is written into the pages of the bill before the Senate unless we send it back.

I can only report what I read in the budget package. Mr. President, $270 billion will be cut out of Medicare. That is fact. Mr. President, $225 billion will be given away in tax breaks and giveaways. That is fact. Then there is the $187 billion sliced out of Medicaid, subject to another amendment leaving it in tatters as it is chopped into a block grants 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 do not understand.

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 that 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. That 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

to plan Medicare's future for the 50 years beyond that period of time. Vote for this amendment to protect Medicare from highway robbery, from being used to pay for tax breaks, to take money from seniors with an average income of $17,500 and hand it over to Americans with incomes from $75,000 all the way up to millions. Vote for the right way to balance the budget and for a balance in the Nation's priorities.

We offer this amendment to remind every Senator that he and she can respond to the seniors, the families, and the health care providers of America who are scared by rejecting the part of this budget that casts a dangerous, deep, and dark shadow over Medicare—that is, unless this amendment is passed.

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

Mr. KENNEDY. Mr. President, if this Republican bill becomes law, it will devastate senior citizens, working families, and children in 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 values the Republican majority pretend 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 that 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 those 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—premiums will double, deductibles will double, the age of eligibility will be raised to 67, and senior citizens will be squeezed hard to give up their own doctors and HMO's.

The fundamental unfairness of this proposal is plain. Senior citizens' median income is only $17,750. Mr. President, 40 percent have incomes of less than $10,000. Because of gaps in Medicare, senior citizens already pay too much for the health care they need. Yet the additional premiums alone under the Republican plan will add $2,400 to the health care of the average elderly over the next 7 years.

The Medicare trust fund trustees have stated clearly $89 billion is all that is needed to protect the trust fund for a decade—not $280 billion. The Democratic alternative provides that amount. It will not raise premiums an additional dime. It will not raise deductibles a dime. It will give senior citizens real choices, not force them to give up their own doctor.

The Republican Medicare plan also deserves to be rejected because of the lavish giveaways to special interest groups in the House and Senate proposals. Insurance companies got what they wanted—the opportunity to get their hands on Medicare and obtain billions of dollars in profits. The American Medical Association got what it wanted—lower reduction in doctors' fees and little on malpractice awards. The list goes on and on.

Clinical labs no longer have to meet Federal standards to guarantee the accuracy of tests. Federal standards to prevent the abuse of patients in nursing homes will be eliminated. Pharmaceutical firms will be given the right to charge higher prices for their drugs.

Because of this unjust Republican plan, millions of elderly Americans will be forced to go without the health care they need. Millions more will have to choose between food on the table, adequate heat in the winter, paying the rent, or paying for medical care.

Senior citizens have earned their Medicare benefits. They paid for them and they deserve them. The Republican attacks on Medicare will make life harder, sicker, and shorter for millions of elderly Americans who built this country and made it great. They deserve better from Congress. Our Democratic alternative protects senior citizens and preserves Medicare, and that is just what the Rockefeller proposal offers.

I see my colleague and friend from North Dakota here. I will be interested if he would tell us what his understanding of the implications of this program would be to those in rural America.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, we have been told by some that the $270 billion reduction to Medicare is not a cut, that Medicare spending will still increase under this budget reconciliation bill. That is true. But, Mr. President, 200,000 new Americans every month become eligible for Medicare. More Americans are becoming eligible for Medicare and health care costs are increasing.

We have determined what it will cost for the Medicare Program over the next 7 years based on these facts. The plan is to cut $270 billion from that projection, so of course it is a cut. This plan will end up offering senior citizens this kind of Faustian bargain: We will offer you a deal in which you get less health care and you pay more for it.

In our country, we have talked about labels recently. When you go to the grocery store, there is a label on the food. Pick up a can of peas or a box of pasta, and the label says what is in it—how much sodium, how much fat. You have to be honest and truthful about labels on a can of peas in a grocery store. No such requirement exists here in the Congress. You can label it whatever you want to label it and do it with impunity.

This proposal is labeled "A Proposal To Save Medicare." The very people who opposed Medicare when it was created 30 years ago—97 percent of the present majority party voted against Medicare because they said they did not believe in it—are now telling us they are the ones who are going to save it.

If these folks were physicians in an emergency room and you came in with an ingrown toenail, they would cut off your leg and then boast about how your toe does not hurt anymore.

The fact is, you do not have to cut $270 billion to save Medicare. We should make an adjustment in Medicare but it need only be about a $89 billion adjustment. That is what the experts tell us is needed to extend the hospital insurance trust fund. So what is this debate all about? It is about getting money from the Medicare Program, with substantial cuts, in order to provide tax relief to some other folks. That is about pols and pals—politicians and their pals.

Who gets the tax cut? Well, first of all, let's consider who gets the tax increase? The Joint Tax Committee says 50 percent of the people in this country are going to pay higher taxes as a result of reconciliation bill. Here's a multiple choice question—which people will pay higher taxes, those with incomes in the lowest 50 percent or those in the highest 50 percent? Guess what, the majority party has said to us that the lowest 50 percent of the income earners should pay higher taxes, but the top 1 percent shall pay substantially lower taxes.

Where does all that money come from, to provide for the tax break to the upper income folks? Out of the $270 billion cut in the Medicare Program.

As I have said repeatedly, this is all about choices and priorities. If one thinks Medicare has not been worthwhile in freeing senior citizens from the fear of getting sick and not having the money to attend to their health care needs, then just decide there should be no Medicare Program. I respect that. I do not agree, but I respect that.

But this is about choices. Those of us who believe there ought to be a Medicare Program that senior citizens can rely on —and we are the ones who started Medicare, still believe in it and believe it should be there in the future—we say, send this legislation back, recommit it, and bring it back to the Senate floor with an adjustment in the tax cut and use that money to reduce the cuts to Medicare.

I had an amendment on the floor of the Senate 2 days ago that was very simple. It said, let us at least limit the tax cut to those whose incomes are at or below $250,000 a year. Just limit the tax cut for at least those who make less than a quarter of a million dollars a year, and use the $50 billion in savings from that over 7 years to reduce

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 for the long term. Our choice is not to provide tax cuts to the richest Americans and send the bill for those tax cuts to some of the most vulnerable Americans.

By far the majority of the senior citizens in North Dakota live on less than $15,000 a year in income. To say to those folks that we are going to take from your Medicare Program so we can offer tax cuts to the richest Americans makes no sense at all. Those are priorities that are not in keeping with what the American people would like us to do.

We need to balance the budget. We need to agree on a sensible way to do that. But we do not need to dismantle programs that work. 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 months now to the attack on an $89 billion cut as opposed to a $270 billion cut.

I raised the question, what has happened to the $181 billion? Is this really going to a tax cut? What about the doubling of the deductible in the premiums? Things of this sort.

I ask if any on the other side care to explain why they would vote against my amendment, if, in fact, they are going to? I would just be interested if they have anything they choose to say?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from——

Mr. GREGG. If the Senator will yield on his time, I will be happy to respond.

The PRESIDING OFFICER. Will the Senator from West Virginia yield?

Mr. ROCKEFELLER. I will not yield. Because I would like to hear the response from the majority party as to some of the reasons for their certainty as to the need for the $270 billion cut which is causing so much consternation throughout the land.

Mr. GREGG. If the Senator from West Virginia is going to propound a question to myself and the Senator from Michigan——

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

Mr. GREGG. 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. So at this point 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 quickly. But I will yield myself 5 minutes.

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, that puts genuine fear in the heart not just of this Senator but of the seniors that I represent, 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 the last resort 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. Will the Senator yield for a question?

Mr. ROCKEFELLER. I will be glad to yield.

Mr. KENNEDY. What is the Senator's understanding of the effect of this particular provision in the Republican budget bill and the impact on the people of West Virginia, in terms of the seniors there, their incomes, and what the Senator thinks would be the impact?

Mr. ROCKEFELLER. I will answer the Senator from Massachusetts that for the average senior in West Virginia, their income would be about $10,700 a year, and 21 percent of that they already spend on health care. There is little left on the margin just to survive. If this happens, the deductible will double, and the premiums will go up. All kinds of costs will increase, and services I believe, particularly in the rural areas, will decrease.

I think that, No. 1, they are going to feel like they have been abandoned. Whether or not they will be is yet to be fully determined. But they are going to believe they are going to be abandoned. Hospitals in rural areas are going to close down. They already are closing. That will pick up.

So in a State which is 97 percent mountain and 3 percent flat, as the Senator knows, they are going to feel cut off from health care, and in many cases they will be cut off from health care because they will have no acute care beds that will be available to them because of hospitals that are closing down.

So expenses will go up. Their fear will skyrocket. Their hospitals will begin to close down. Doctors are going to become much more reluctant to go into the rural areas of West Virginia because of the cuts in the graduate medical education. You are going to find the kinds of doctors who have traditionally gone into rural areas to service seniors are not going to be trained because they are no longer going to be funded by the Republican cuts under Medicare because of the cuts in graduate medical education.

So I do not know any way that they win. I can think of no way that they win, and I can think of 10 ways they lose.

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. That is just more money out of pocket. Of course, the ironic thing there is that 40 percent of what it is that the majority party is cutting out of Medicare—$100 billion—cannot 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. 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 gets that 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. This is a trick-or-treat bill. The trick is on American 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 right here on this poster. This is what the debate is about. Make no mistake about it. Notice the date on these words. October 24, 1995. That was yesterday. Last night in a speech to the American Conservative Union here in Washington, here is what the majority leader of the Senate said:

"* * * I was there fighting the fight—voting against Medicare—one of 12—because we knew it wouldn't work in 1965.

There you have it. 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 46 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 my 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. We 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 they 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 2 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 up front, and he got it 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 1950's and in the early 1960'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 and that it has not worked. 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 made 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 about Medicare. They think 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?" Most of them raise their 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 it is $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 darned good deal.

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 trustees; how the trustees said 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.

What our amendment does is send the bill back to Finance, and come back with an $89 billion cut in Medicare to make it secure but to 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 28½ 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. FRIST). 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 allegations 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 condition 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 are going to be before 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 and throwing them into 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. There are two ways 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 repair the damage. That is what 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 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 is not just cover 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.

Mr. GREGG. I thank the Chair.

I associate myself with the comments of the Senator from Michigan. I wish to respond to some of the points made here by members of the other side who, I am sure, have done so with sincerity but who have been inaccurate to say the least.

Initially, let me state that the purpose of the Medicare reform which has

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 1995. The fact is that the muffler has fallen off, 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 the Senate plan, 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 that. That is their decision.

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 cannot even anticipate because the marketplace has not created them yet that we will make available to our seniors.

And in giving our seniors those choices, what else do we do? We also 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 outrage 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 are going to increase 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—I was off by $3 billion; 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 "savaged it," under the Democrat terms, because in the last 7 years it grew to $923 billion spent on Medicare, but over the next 7 years we are going to spend $1.6 trillion on Medicare.

So clearly there is no cut 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 on the other side of the aisle want for Medicare, 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, 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, if Medicare is allowed to 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 simply 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 colleague from Iowa said there is no place 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 glasses, though.

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—

Which happens to be their minimum year——

Mr. HARKIN. Will the Senator yield?

Mr. GREGG. I am sorry. I will not yield. The other side did not yield. I will not yield.

Mr. HARKIN. I wanted to clarify a point.

Mr. GREGG. I am not yielding to the Senator from Iowa.

To bring the HI program into actuarial balance even for the first 25 years under the intermediate assumptions, would require an increase in the HI payroll tax of about 0.65 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 the trustees are stating that under their most conservative approach, on an actuarial basis, which they did not even agree should occur because they think it is too short of a timeframe, it would take $386 billion—$386 billion—of adjustment over a 5-year period in order to accomplish actuarial solvency. So this $89 billion number is specious on its face.

And then we have heard, "But the premiums of our seniors are 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 on 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 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 percentage of the cost that is being borne 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 essentially saying that the senior citizens 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 25 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 one 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 reference. 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 have to subsidize the top 100 retirees from IBM last year. But that is exactly what is happening.

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 have corrected 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 your incomes get 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? Talk 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 seniors 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 this horrendous event. 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, there is a $349 billion increase in spending 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.

Last year, for example, the health care system which all of us here in the Congress benefit from had actually a drop in the rate of growth of our premium costs. Why? Because there was competition, because there was choice. 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 will 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, 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 make a lot of sense in other 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 seem so enthused for because the administration understands 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 6.5 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 misrepresentation 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 just 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 for his courtesy and for his time and would yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

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

The PRESIDING 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 say to 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. ROCKEFELLER. Mr. President, I yield 4 minutes to the Senator from Louisiana.

The PRESIDING OFFICER (Mr. GREGG). 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. This elderly 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 ever had. It 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 we wonder why a lady would come 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 understand that for some, earning $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 $300,000 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. I would agree with the Congressman if middle class is people earning up to $750,000, we do not even need Medicare. Let them go buy private insurance. Maybe let them buy a hospital if they earn that much money, or 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, I have an 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 actuaries—these are the guys who 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 $89 billion, not $270 billion, because that is not 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 are necessary to fix it.

That is clear: that is simple. Nonpolitical 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 be able 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 that 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 PRESIDING OFFICER. The time of the Senator has expired.

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

Mr. KERREY. 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 wrong but because I believe 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 it.

What we have done 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 7 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 2002. It is one of the biggest reasons that 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 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 not waste another million on a 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 asked for 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 and of their grandchildren that they may get stuck with these bills as well. 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 market and allow competition. Mr. President, $152 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 market economy in the late 20th century, when we say to businesses, "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 preserve Medicare, that means 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 this 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 invest in education, transportation, research, child care—those things you need in an active economy.

Mr. President, most particularly, I hope there can be a bipartisan consensus begin to emerge as a result of seeing 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. I hope that 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.

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

The PRESIDING OFFICER. The Senator from Michigan has 40 minutes left. The Senator from West Virginia has 15½ 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 a very 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 Hired 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 Yorker Henry 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 campaigns.

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 congresswoman 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 bat 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.

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

(See exhibit 1.)

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 man whom the President of the United States 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 one called the Green plan. Discussion 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 has been 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: The more people that knew about the President's plan, the less they approved of it. The more the information got out, the more the poll numbers fell. So that by the time we finally got to the resolution of that issue on this floor, they had switched 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 are for the Democrat position or we are 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 time is on our side, that facts are

on our side, and do not be terrorized by the deliberate program of terror that is being mounted primarily out of the White House and from the Democratic National Committee.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Oct. 16, 1995]

CLINTON RECRUITS CAMPAIGN TEAM OF "NASTY BOYS" WITH REPUTATION AS TOUGH, SAVVY HIRED GUNS

(By Michael K. Frisby)

WASHINGTON.—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 Yorker Henry Sheinkopf, readily boasts. "I subscribe to terror."

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. Bill Lacy, a strategist for GOP frontrunner Sen. Robert Dole of Kansas, says he expects "a scorched earth campaign" from this group.

The Clinton-Gore re-election campaign will be headed by a prominent Democrat, perhaps a cabinet member, who will set the grand blueprint with the president. But every campaign relies on its savvy strategists and creative media team to fire up voters. And Mr. Clinton has loaded his campaign with the most aggressive war counselors available.

Led by Dick Morris, of Connecticut, the president's media-message team also includes the New York polling firm Penn & Schoen Associates Inc. It's anchored by Washington veteran Robert Squier, a firebrand himself, who plays a calming role on this feisty group. "We are putting together an exciting creative team that can pick up where the strategic thinking leaves off," Mr. Squier says.

It is Mr. Sheinkopf, a whiz at low-budget ads, who has raised the most eyebrows. A year ago, he shared his trade secrets at a convention of political consultants and talked about using fear to win campaigns. Mr. Sheinkopf told the gathering, "Terror tends to work . . . because it is so easy to make people hate."

Mr. Sheinkopf doesn't deny the remarks, but says they are often taken out of context. He says he was addressing the strategy for a noncandidate campaign, such as a referendum fight, in which the clients don't have much money. "I'm tough, but I'm not ruthless," he insists. "I fight for my clients."

Elizabeth Holtzman will never forget when she first heard about Mr. Sheinkopf. The former New York congresswoman 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. "The voice said, 'She's a very nice girl. I might like her for my daughter, but not district attorney.'" Ms. Holtzman recalls. She found out the spot was created by Mr. Sheinkopf.

Her reaction? She hired him for her next campaign.

"He's very creative." Ms. Holtzman says. And, like other members of this media team, he'll bat for most anyone—as long as they are paying clients.

Mr. Sheinkopf's claim to fame is hot radio spots for African-American candidates, many of whom are liberals. Yet, he and his partner, Gerry Austin, in the wake of the riots after the Rodney King case, worked on behalf of Los Angeles police officers fighting a reform measure on the ballot. Mr. Morris, a longtime associate of Mr. Clinton, has worked for conservative Republicans, such as Mississippi Sen. Trent Lott. Mark Penn, a partner in Penn & Shoen, worked for maverick Ross Perot in 1992, and the firm does considerable work for corporations.

Thus far, the consultants, with Mr. Morris calling the shots, have helped bring Mr. Clinton back to life after last fall's GOP sweep. "They have presented a disciplined and controlled message," said Democratic strategist Robert Beckel. "It has put the president back in the dance."

PUSH FOR BUDGET PLAN

Even Mr. Morris's critics tip their hats to his pushing the president to offer up a balanced-budget plan last spring, a move that embittered other Democrats. Mr. Morris argued it would gain the president credibility on economic issues, opening the door for him to now hammer the GOP for squeezing Medicare and education funds without appearing to be a tax-and-spend Democrat.

Mr. Sheinkopf was the architect of this summer's unprecedented ad campaign—16 months before the election—portraying Mr. Clinton as tough on crime. Using his connections, the former New York City police officer lined up cops around the country for the ads.

Inside the White House, the acceptance of Mr. Morris and his crew is growing, but there are still spats. The team wanted to attack the GOP with Medicare ads in early September, but were blunted by Deputy Chief of Staff Harold Ickes, who doesn't want to get caught short on campaign cash next summer. 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 be either 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 was a high-tech 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 didn't have the desired effect," concedes Ray Pohlman, the campaign manager. But 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 bringing in an outside expert to do the video work. Mr. Morris, who was responsible for hiring Mr. Sheinkopf, also recruited Marius Penczner, who runs a video production house in Memphis, Tenn. Mr. Penczner, whom Mr. Morris met on the Sundquist campaign, is known more for country music videos than political work. Mr. Clinton has marveled at the quality of Mr. Penczner's Oval Office video shots, which are in most of the president's TV spots.

CONTROVERSIAL POLL

Mr. Morris also picked Penn & Schoen as the campaign pollsters, virtually ousting old Clinton hand Stan Greenberg. Their results, however, are sometimes controversial. Their poll put then-Ohio Rep. David Mann up 28 points in his Democratic primary fight against State Sen. William Bowen. A short time later, fund-raising letters went to political action committees, citing Mr. Mann's lead. He won the race, but by two percentage points. "We laughed at that poll," recalls Mr. Bowen. "It was just part of their tactical strategy to show him way in front: that wasn't the case."

The poll was five months before the election, and undecided voters later turned against the incumbent, says Douglas Schoen. "We always thought it would be close," he says, noting a poll closer to the election showed a tighter contest.

The new Clinton campaign team raises concerns among presidential scholars. While applauding their cleverness, experts search for the intellectual thrust. Mr. Clinton likes to be compared to President Truman, who overcame a hostile Congress to win re-election. But Fred Greenstein, a Princeton University historian, notes Truman's comeback was fueled by the intellectual energy of Clark Clifford and others—not image-makers. And that, he says, is missing from a Clinton team searching for the best political answer.

"Maybe you need someone with substantive fiber to give you advice," Mr. Greenstein says.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. I yield 30 seconds.

Mr. WELLSTONE. Mr. President, I say on behalf of my good friend, Senator HARKIN, and myself, the Senator from Utah says the more people learn about the plan—we just got there. There has not been one hearing. How many pages are there?

Mr. HARKIN. There are 2,000 pages.

Mr. WELLSTONE. Mr. President, 2,000 pages, and people do not know what is in here. We did not have experts come to committee. People in Iowa, Minnesota, and across the country——

Mr. HARKIN. How many days of hearings have we had?

Mr. WELLSTONE. Not anything.

Mr. HARKIN. Zero. The American people have no idea what is in this.

Mr. WELLSTONE. The people do not know about this.

Mr. JOHNSTON. Mr. President, 23 years ago I came to the U.S. Senate as what we call a Southern conservative. There are not as many of us left as I would like there to be, but throughout that time, Mr. President, I have frankly given my party some consternation by opposing some things which I thought were too liberal, particularly when it came to what I thought was income redistribution.

I can recall opposing the CETA Program because I thought it was sort of a make work program that would take money and give it to poor people, just sort of without working.

Now, Mr. President, in spite of the fact that I remained through all those 23 years as a Southern conservative, I oppose strongly this program.

Mr. President, this program goes in the exact opposite direction because it is income redistribution from bottom to the top.

Mr. President, I will be leaving this institution in another year. I must say that we are leaving, if this passes, we are leaving in its wake a real difficult situation for people of modest means in this country.

While we are taking care of those who are better off—the tax credit for children goes up to $110,000, people 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 scare tactics. 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 406,000 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 is 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 meets the Medicare trustees' 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 every year.

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 a contrast to what 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 the need to restore 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 $66 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 the part B program we cannot say that we have effectively tackled the problem of fixing Medicare. Therefore, I oppose the Democrats' amendment because we have already 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 Michigan 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. COVERDELL. 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. Over 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 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 here, 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

their total income absorbed and taken away by a Government. In 1950, Ozzie and Harriet, the quintessential family, sent 2 cents out of every dollar off to Washington. If Ozzie was here today, he would be sending 24 cents to Washington.

The point is we have marginalized the average family. We have taken so much of their resource away from them that they are unable to fulfill their principal obligations to their children —to housing, to clothing, to education and health. So, it is important that there is a tax reduction. Their President has already acknowledged it. And we are fulfilling it.

Mr. President, 70 percent of this tax relief will go to families with incomes under $75,000. This proposal alone, for this family that makes $40,000, the combination of the tax reduction and the balanced budget, will put between 2,000 and 3,000 new dollars on the kitchen table of every family home. That is an equivalent increase of their disposable income of 10 to 20 percent, depending on the family. That relief is long overdue.

We will lower their interest payments on their mortgage, probably about $50,000, by $1,081. We will lower the interest expense on their car loan by about $180 a year; on the student loan, by $220 a year; on their credit card. With the two children, they will get $500 for each child.

This is just the beginning, and that is $2,500 to that average family. Given the fact we are taking half their income now, do we not think it is about time that something got back to the average family? This tax relief does not disappear. This goes to real working families, real people who are having a hard time making ends meet. To extend solvency and to help the middle-income family is entirely appropriate.

Mr. President. I yield the floor.

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

The PRESIDING OFFICER. The Senator from Rhode Island.

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 program 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 insured 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, wait a minute, this is costing 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 69 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 $75,000 of income, that they will 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 wages deducted and 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. I do not know. Apparently, 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 there is no need for this recommittal motion whatsoever.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 4 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President. I thank my friend from West Virginia.

Mr. President, the Senator from Rhode Island said that he thinks it is eminently fair. Let me try to just reduce it to the simplest, and I think the most truthful assessment of what is fair and what is not fair. Most Americans, when they stop and look at what is about to happen, are going to wind up asking if it is fair to take an assessment by the trustees of Medicare that says there is a $90 billion problem, and turn it, through political sophistry, into a $270 billion problem so that you can give a $245 billion tax cut. That is absolutely what this comes down to.

This is a zero-sum game. This is a process of balancing the budget. And in their balanced budget, they are offering a $245 billion tax reduction to Americans. How do they get it? They do not pull it out of the sky. It has to be balanced against other items in the budget. And in order to find the room to balance the budget and provide the $245 billion tax cut, they give a $270 billion definition to a Medicare problem that the trustees themselves call an $89 billion problem. It is that simple. Take away the smoke, take away the mirrors, and take away the rhetoric. You cannot balance the budget with a $245 billion tax break without finding the money somewhere. And they find the money by taking it from seniors. Is that fair?

They say to Americans they are giving every American family a tax break for having children—the $500 credit. But analysis will show that, too, is not only not fair, but it is not truthful because not every American family will get the tax credit because not every American family qualifies because of income to have an income tax reduction. Most American families pay their taxes—a large burden—many, through the payroll tax. And because the tax credit is not refundable to them at the lower end of the income scale, they will not get the benefit. So not only do you have a skewed tax relief, so to speak, but you have a discrimination against the hard-working average taxpayer of America.

But it is even worse than that, Mr. President. Because while they give a tax break of about $5,000-plus to the person earning more than $350,000 a year, they raise the taxes on the person earning less than $30,000 a year.

That is an extraordinary definition of fairness. I do not know where you get that definition of fairness. The Medicare cuts themselves are going to be devastating, devastating. There are more and more post-World War II baby boomers who are reaching the age of 65, and the number of people paying taxes to pay for them is diminishing. Today you have an estimated four taxpayers supporting a Medicare part A beneficiary, four people supporting one. But when the baby boomers retire between the years 2010 and 2015 you are going to go down to about two people paying for each one of those on part A.

The result of that with these cuts is going to be that you are going to have an overall population increase of 2 percent, but are you are going to have a 30-percent increase of people on Medicare looking for their retirement benefits under Medicare? The problem is under the cuts and the reductions of

the total pot that will be made available by the Republicans, you are going to be having people come in at a 30-percent 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.

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 people in my State and around the country who are struggling to make ends meet.

My Republican colleagues are offering a $270 billion solution—at least $160 billion more than is necessary to ensure the financial solvency of Medicare.

We have been told by the Medicare trustees that there is a pending financial disaster that could result in the total collapse of the Medicare part A program unless changes are enacted.

According to the trustees, the magnitude of the crisis is around $89 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 short-term crisis that can be fixed without totally dismantling a program that has provided economic health security to 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 fail 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 more and more post World War II so-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.

Today, an estimated 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 will, 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 has 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 could lose 71,000—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 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 problems for Massachusetts are intensified when we examine the potential impact of the proposed cuts in Medicaid—the health care program 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 elderly Americans; and 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 Tennessee 7 minutes.

How much time remains?

The PRESIDING OFFICER. The Senator from Michigan 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 for part A, not just the hospital part of the trust fund, but it prevents the bankruptcy of the entire program.

Second, our plan, our underlying bill, increases spending, increases spending from $4,800 by nearly $2,000 per beneficiary to $6,700. 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 somebody, again, who has taken care of so 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. To me, that is what is most exciting about our solution that is in the underlying bill—is that we improve the program.

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

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

That is really 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, "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"—funds, not just part A, funds, the overall program—"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 works in 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 go 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 and is projected to be exhausted in about 7 years."

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 Democrats today will extend that trust fund, just that part A, for 2 years, maybe 2 years. It does not address the underlying problem.

Going back to the Medicare trustees report: "The HI 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.

Let me 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 said that the CBO's preliminary estimate shows what will happen to the Medicare trust fund if only $89 billion is saved over the next 7 years. Their conclusion: The Medicare HI trust fund is solvent through the year 2004.

So what we have 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 64 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.

Ours is a long-term solution.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. 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 none of my Republican colleagues 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 antiquated, outdated, and serve the senior citizens well?

The second thing I would like to say is in response to my friend from Georgia talking about Ozzie and Harriet. Let me tell you how Ozzie and Harriet are going to work under this proposal. They are going to find out that their mother and their father on Medicare are going to pay $800 or $900 a year more come the year 2002. Then when grandmom and grandpop come to Ozzie and Harriet, because they have the same middle-class values as the Senator from Georgia and I do, and mom says, "Ozzie, I tell you what, these Republicans gave me a choice; I can pay $800 more or I can go into one of these HMO things, but I do not get to see Dr. Jones anymore," do you think Ozzie is going to stand there and say, "Hey, Mom, tough."

Ozzie is going to reach in his pocket, like all the Ozzies in this Chamber, and say, "Don't worry, mom. Even though I can't pay my taxes, even though I can't get my kid to school, I am going to increase my taxes, in effect, 800 bucks to pay for you and 800 bucks to pay for dad because I know your median income is about $18,000, so I will take care of it for you."

This is a tax increase for middle-class people who care about their parents.

And wait until we get to Medicaid, when Ozzie and Harriet get the phone call midyear and mom says, "Hon, they tell me I got to come home; it's June. I gotta come home from the nursing home." Watch what happens then to decent, honorable, middle-class people who are being crunched on the one hand by their children with the cost of a college education and the cost of maintaining their standard of living, which is slipping from them, and on the other hand, having to pick up the costs for mom and dad.

The last point I would like to make is one of the reasons to send this bill back, and that is, fraud, although Senator ROTH did much better than our House Members did. Everyone acknowledges there is about $34 billion a year in fraud in Medicare and Medicaid. This bill hardly touches the problem. This is the case, I might add, because health care providers do not like us dealing with fraud.

I have been working to combat health care fraud for over 3 years now—ever since I first introduced a health care fraud bill in the U.S. Senate and held hearings on health care fraud in the Senate Judiciary Committee.

I found in those hearings—and it has been reported elsewhere ever since—that fraud in the entire health care sector accounts for up to 10 percent 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.

Later in the debate, 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:

in 1994, in the Middle District of Pennsylvania, the Justice Department recovered almost $7 million in fraudulent Medicare and Medicaid payments—more than what it cost to run the entire Justice Department office in that district.

This is an excellent return on our investment. So, before we raise costs to senior citizens—before we impose draconian cuts on benefits—we need to root the robbers out of Medicare.

Let me say up again that the Senate bill is much better than the House bill on this front. The House bill would make it much more difficult to prosecute health care fraud.

The House bill would change the standard of proof in a civil fraud case from "knows or should know" to "deliberate ignorance" or "reckless disregard."

The House bill would change the standard for enforcing the Federal antikickback laws. The current standard prohibits kickbacks when one of the purposes is "to induce" referrals. But, the House bill would prohibit kickbacks only "for the significant purpose of inducing referrals."

Fortunately, these provisions are not in the Senate bill. But, let me mention one thing about the Senate bill that troubles me from the fraud perspective.

The Senate bill would repeal all Federal safety protections for seniors in nursing homes. Last week, in Delaware, I held a forum on Medicare fraud. At that forum, Federal prosecutors said that elimination of nursing home standards would create a significant problem in both the investigation and prosecution of patient abuse.

In addition, Mr. President, I believe the antifraud provisions in the Senate bill could be—and should be—stronger.

We need to guarantee that there will be funding to fight fraud—so that there are more investigators and prosecutors in the field to go after the crooks.

We should collect the costs of our investigations from those who are found guilty. And, we should require the guilty to pay restitution to the victims.

We need to strengthen the penalties for those found guilty of health care fraud—including increased fines for those who violate the antikickback laws.

And, we should provide rewards for consumers and patients who uncover fraud.

So, Mr. President, I hope my colleagues will support the motion to commit—so that fraud can be made the top priority in achieving Senate savings. And, I hope my colleagues will later adopt the Harkin-Graham-Biden antifraud amendment.

Now is not the time to make it easier for the crooks and con artists to get away with ripping off the American taxpayer. Instead, we need to renew and strengthen our efforts to fight Medicare fraud.

The PRESIDING OFFICER. The 3 minutes have expired.

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. Mr. 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 cuts for the wealthy, put aside the tax breaks for the large corporations, put aside the tax increase on the working families, and 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 lifting the age eligibility issue and assuring 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 vote is 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 genesis 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 2 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 system that 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 than to reduce expenditures and cut the American people's

taxes. For what else is this? If there are no tax cuts in this bill, part A of Medicare goes broke. Take them off the table and it goes broke. That is not this Senator speaking. That is the trustees, four of whom work for the President. Forget the tax cut, it goes broke. So what are they talking about? They are talking about a political issue, not the reality of what we as leaders must do.

Frankly, there is no question that the trustees talked to us about both parts of Medicare. Seniors, you understand very few of you go to hospitals every year, but a lot of you go to see your doctors. The hospital coverage is the part that will be protected for 2 additional years, but the rest of the program will be, according to the Democratic version, will be left in the doldrums.

The trustees told us both 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 bureaucracy and paperwork that frustrates them more than the doctors that serve them.

If you have ever heard a senior complain, 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 costs." That will all change 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 Senate plan. And 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 60 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 hypothetically 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 married with the same income, 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 that helping rich people of America or is that 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 these issues. And all 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 unpredictable—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.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

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 brackets 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. Any analytical 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 more than a Medicare-approved 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, and to bring the trust fund into solvency in ways beyond what the Democrats have offered, I could understand it. If we were in a position where it was this plan or bankruptcy, I could see 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 into the year 2006. Not a penny more. In an analysis of the House plan to cut $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 not a question about solvency. It is a question about where we go for revenue to pay for the tax cut 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 the future. 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 medical research and training programs.

We know that up to $100 billion is going to be cost-shifted on to those 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 our choices. If we choose 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 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.

The PRESIDING OFFICER. Who yields time?

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 really not intent on denying them money for health care. In fact, over 7 years on Medicare alone, we will 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. 2949 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.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2949 to the instructions to the motion to commit S. 1357 to the Finance Committee.

Strike all after "Finance" and insert the following: "With instructions to report the bill back to the Senate forthwith to include 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 amount 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. I 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. As a matter of fact, the conservative projection has not proved to be correct. Through most of the years we have had those Social Security projections, as a matter of fact, even 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 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 the 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 says, "Let us slip by for now, 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; that, if you 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," which 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 Federal programs which we have put 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 actuarially 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 says 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 this board. These are 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 trustees' short-range test of financial adequacy. Under the high-cost alternative, the fund is projected to be exhausted in the year 2001, approximately 6 years from present. Under 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 ratio 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 highlighted 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 the 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 .65 percentage adjustment in payroll rates for employees and employers, which translates into $387 billion of adjustment which must occur over a 7-year period. This is the trustees speaking, saying an adjustment must occur over a 7-year period in order to get actuarial solvency, under their intermediate assumptions—which you say are rather rosy—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 somewhere in the vicinity of $300 billion. Is that not correct?

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.

AMENDMENT NO. 2949, AS MODIFIED

Mr. BROWN. Mr. President, I send to the desk a modification of my amendment that clarifies that aspect.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2949), as modified, is as follows:

I modify the text of my amendment to read as follows: "with instructions to report the bill back to the Senate forthwith providing that all savings to Part B of Medicare made by the Balanced Budget Reconciliation Act of 1995 shall be transferred from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund; to include 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. Mr. President, I want to continue, if I may, to make available in the RECORD the exact words of the board of trustees. I think they have credibility not only because this is a contentious issue between parties and they happen to be—six of them—Democratic members, all appointed by the President. I think that renders at least—even though they are partisan in their majority, it brings certain credibility to these deliberations. Frankly, I think that for most Americans looking at this, that is the first question they will have about this aspect of it.

Continuing on with this:

Not only are the anticipated reserves and financing of the HI program inadequate to offset the demographic change, but under all sets of assumptions, the trust fund is projected to become exhausted even before the major demographic shift begins to occur.

What we are talking about here, Mr. President, is before you have that adjustment from four workers down to two workers supporting the persons who receive the benefits—even before that demographic change begins, you have problems with the solvency of the fund. The trustees go on:

The trustees note that some steps have been taken to reduce the rate of growth in payments to hospitals, including the implementation of prospective payment systems for most hospitals, and experience to date suggests that this mechanism, together with provisions enacted by Congress, has restrained the growth in hospital payments that improve the efficiency of the hospital industry.

In their overview, they continue on, and I think this is more significant for our purposes:

Extension of this payment system to other providers of hospital insurance services in further legislation limits payment increases to all hospital insurance providers, could postpone the depletion of the HI trust fund for about another 5 to 10 years. Much more substantial steps would be required, however, to prevent trust fund depletion beyond 2010 when the baby boom generation begins to reach age 65.

Mr. President, that is the nub of it. The trustees have put their finger on it. They hit it exactly. You can do a quick fix for 5, 10 years. That is, apparently, what is behind the thinking of the underlying amendment. But in the Democratic trustees' own words:

Much more substantial steps would be required, however, to prevent trust fund depletion beyond 2010 when the baby boom generation begins to reach age 65. Under present 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 assumption, Mr. President. As a result, the hospital insurance program is severely out of financial balance, and the trustees believe that the Congress must take timely action to establish long-term financial stability for the program.

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 2065. This rapid growth is attributable primarily 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 actuary 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: You have to take 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 advisory council for the Medicare program. This action would help provide critical information that will be needed by the administration and Congress as they deliberate 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 to work 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 cooperate 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, or independent—feels that is responsible. I honestly believe that 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 solution 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 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 do as this 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.

Mr. President, no one is going to be fooled by this amendment. Our Republican friends are scared of this vote. They do not want this vote to happen. It is Halloween and they are running scared. It is clear the people who are running scared are the Republicans trying to cut the Medicare.

No one is fooled by this Halloween trick. The American people know what is at stake. Medicare is at stake and Democrats are trying to save it.

Now, Mr. President, I have been on the floor since the first hours, about 10:30 this morning, when we began that debate. I have listened hour after hour after hour after hour how our Republican friends justify the measure before the U.S. Senate. They talked about the different proposals of it. Why it was fair, why it was just, why it was equitable, how it was going to enhance health care for our senior citizens.

That is what they have talked about. They would not talk about the $240 billion tax cut for the wealthiest individuals, for the corporations, the tax increases on working families, the fact that they are raising the eligibility age from 65 to 67, the pressures that will be on the senior citizens in reducing their options to be able to choose their own doctors.

No, they did not address those particular issues. They did not address those particular issues. They said what we have here makes sense. It makes sense for those who are interested in the balanced budget. It makes sense for those who are interested in quality health care.

Now, our Republican friends have come, on top of this amendment that was offered by the Senator from West Virginia, and effectively eliminated, emasculated in a way which would have, if it had been accepted, preserved what had been recommended by the trustees, the $89 billion, and ensured there would be no increase in the copays and deductible premiums for our seniors.

But, no, they would not give the Senate a chance to vote on that. Instead, they are here saying, instead of your amendment, why not just have a study about the medium- and long-term interests of the Medicare system.

We are all for it. Why did you not do it when you had a chance? You had the votes to do it. Why did you not do that earlier? You could have reported out some kind of measure in the meantime, but you did not do it.

All Members are concerned about what is going to happen after 10 years of solvency for the Medicare system. Many of us believed that what you are concerned about and have offered recommendations and suggestions, when you recognize that there is nothing in this legislation that is going to do anything about providing preventive health care for our senior citizens. I am interested in that. What about the 30 percent of overutilization in our hospitals because of Medicare entries into the hospitals? I am interested in that.

What are we doing to expand long-term care? Or home care for our seniors? I am interested in that. What are we doing about prescription drugs so we can keep people out of the hospital and treat people in their homes and save billions of dollars? I am interested in that. Many of us are interested in that.

None of those issues was addressed by our Republican friends. No, none of those issues that would have had an impact on the medium- and long-term health care needs, none of those issues was addressed.

But, instead, after 5 hours of debate and justification of their own position, they refused—absolutely refused—the effort of many of us who want to try to protect Medicare, who want to defend Medicare. If they are so correct, as we have been listening to them say for 5 hours, why will they not let us vote? Why will they not go and make the speeches they have been making here on the floor of the U.S. Senate, back into the nursing homes, back in the senior citizens homes, back in the plants and factories, and to the elderly people all over this country, if they believe that they are so right about it? If they think the merits are on their side, why do they take this and defend it for 5 hours and then say, "But we will not defend it any longer. We will not defend it anymore. We will not defend it at all. We are going to try and emasculate what you are trying to do with regard to the protection of Medicare."

You do not have to be around here a long time to understand what this is all about. You only have to be around here about 2 or 3 months to know exactly what it is about, and that is you do not want to vote on it. You do not want to know about it.

You came up with this proposal without a hearing on the Medicare cuts. You refuse to listen to the elderly people about the impact it was going to have on them. You jam this through the Finance Committee and the Budget Committee. And you say that it is justified to provide $240 billion to the wealthy individuals and corporations and increase the taxes for working families.

You have done all that. You have it going your way, Senators. We have a time limitation, restriction in terms of being able to take some days and provide some debate on this so the country can know what it is all about. You have it going all your way. You can try to jam us because you have the votes that way.

But, no, you refuse to even let us have a vote on accountability. Come on. Come on. Your program did not make any sense before and you are now demonstrating here on the floor of the U.S. Senate it does not make any sense to you either, because you refuse to defend it. You refuse to defend it.

We listened to all those speeches about how correct you were. Why will you not let us have a vote on it? No. No, we are, instead, going to have a

vote on something else, a long-term study on it. We are interested in long-term studies. We are interested in intermediate studies. What you 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 refuse to let us have a vote on it.

Why? Why 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 for 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.

You know, 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 then 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. The American people understood 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 additional kinds of 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 perfect, but it provides 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 tax goodies for wealthy 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 and coming back, every single time that we have 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 all 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 what is going to happen in 10, 15, 20 years down there." 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 prescription drugs? 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 counsel on those.

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? Why do we not keep them 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, this 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 after, 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 1 hour, and were thinking 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.

But we are even denied that opportunity, evidently. We are denied that opportunity on the first amendment out: denied the chance to have a rollcall vote on this issue.

So, Mr. President, I would have suggested to the minority leader and to our friends, Senator ROCKEFELLER and 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, recommendations 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 are not that concerned. We are not 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 to 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's 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 promulgated 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 that age 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 increases in the copays and deductibles, and that they will have the choice of their doctors.

We have asked to try to work that out together so we can have something

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 with regard to 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 what everybody else gets, they do not get anything at all 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 tax 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 refundable credit, it does not do any good at all for that family.

Mr. President, I just want to respond to a couple of comments by my colleague that were 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 that, as a matter of fact, that is a bit insulting to senior citizens. It is a bit insulting to citizens in our country, period. 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 all of this discussion about scare tactics. I wish we were talking about scare tactics so I would not use it. People have their own intelligence. 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 vote that up or down, colleagues. 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 other side of the aisle 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 way?

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, please 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 piggyback for tax cuts for wealthy people. And if, in fact, you would give up on these tax giveaways—and 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 what we need to do. 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, 50 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 physician's assistants 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 685,000, or 675,000, I believe, by 2002. Later on, we will talk about medical assistance. We have 425,000 beneficiaries of medical assistance. It will go up to 535,000. 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, what the existing benefits are that people will need to have for quality 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 the 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 look the American people in the eye and you can say we believe that 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—5 hours—and then the time came to call 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 look at medium 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 of 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, if 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 insight 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 seeing your ads 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, we see them just running away, running away.

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

Mrs. 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 has 3 more minutes off his side's time.

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 in 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 blocked from voting. 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 NEWT GINGRICH calls 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 sakes repeal 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, that 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 this will be, Senators, we have this 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, colleagues, 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 guess it is 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, but I assume that this point had 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 has lethal effect, 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.

It 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 comes back at me is, do 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 years to come—automatic cuts, no legislative authority, automatic cuts. And what will the 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, which is the "budget expenditure limit tool." And what it does is makes automatic cuts in the traditional fee-for-service Medicare Program, without any action by 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—it would set 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 a 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 repeat that? It becomes 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, 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 plan. No, 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 per side.

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 the perfect word.

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? Is that what the Senator is saying? They are in this big 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 or have hearings and know what is in it. What the Senator is saying is buried in these 2,000 pages, which no one knows what is in there, is a provision that will allow for services to the elderly, in all the areas the Senator just outlined, to be automatically cut, automatically 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 private market, private health insurance, 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 simply because you reduce the amount of money 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 so they are living longer. So you will have more people in 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 up. I daresay, 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 happy folks that we are going to do 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 ball game in health 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 $89 billion reduction in Medicare and supplanted 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 66⅔ 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, senior patients, which, for reasons which we now understand much more clearly because of what is hidden in this Republican plan since obviously their payments will be cut, the physician payments will be cut, threatening the access of seniors to doctors' offices of their choice.

If there is anything you can say to a senior that will justifiably terrify that senior, it is that you are going to take that senior's doctor away.

All afternoon we have been hearing that is not going to happen, but it is the current beneficiaries who are going to be hit the hardest. I just would very much like for my colleagues to understand a new concept called BELT, budget expenditure limit tool, which automatically, if costs go up too much—which, of course, they will—it automatically sequesters and then reduces virtually all health care services for seniors. Nobody in this building knows about it.

Mr. HARKIN. Will the Senator yield?

Mr. ROCKEFELLER. Virtually nobody in the Finance Committee knew about it, because we only debated the thing for about 10 minutes. Now, the Senator from Iowa and the Senator from West Virginia know about it, and perhaps some others do, too.

Mr. HARKIN. Will the Senator yield for another question?

Mr. ROCKEFELLER. Of course, I will.

Mr. HARKIN. Again, I want to thank the Senator for pointing this out. I daresay, not too many people know about this hidden in these 2,000 pages. I just received a piece of paper on this which indicates that BELT applies only to Medicare fee for service. So it would hit only those elderly who want to keep their current doctors; is that right?

Mr. ROCKEFELLER. That is correct. The Senator is 100 percent correct.

Mr. HARKIN. Wait a minute. I had been led to believe by the other side that they want to give seniors choices, more choices; that they do not want to shoehorn or force the elderly into managed care systems but leave them their choices and their options.

But now what this says is that this BELT, this thing which would have these across-the-board cuts in all these areas, would apply only to fee for service. Again, am I correct, I ask 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?

Mr. ROCKEFELLER. The Senator is correct, but I will add a further dimension. It is another aspect in what it is that our Republican colleagues have to do, driven by this Contract With America, in order—you see, there is a reason for this. You do not do it because you want to do it, you do it because you have to get that tax-break money.

Mr. HARKIN. I am beginning to see.

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. Then in the substitute that was offered by the Senator from West Virginia earlier today, on which they will not allow us to vote, it looks like, that BELT provision is not in the substitute of the Senator from West Virginia?

Mr. ROCKEFELLER. There is nothing—nothing—in the Democratic amendment which has that.

Mr. HARKIN. And one last question of the Senator from West Virginia, then. The only reason he can discern for having this provision in there is only so the Republicans can get their $270 billion cut in Medicare to fund the $245 billion tax break; is that correct?

Mr. ROCKEFELLER. To the Senator I say, you have to get your money somehow. If you are going to cut to get all this tax-break money, you have to go to where the money is. The money is in Medicare. The money is in Medicaid. There is some money in the earned income tax credit, which they call a welfare program, which is very interesting to me, because how come those same people then pay a personal income tax and Social Security tax? I did not think people on welfare paid those taxes.

It is just a very depressing aspect of how far they will go.

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 now of what I have found out from the Senator from West Virginia of what is hidden in this bill reminds me of what the majority leader said just last night, and 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 1965.

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 it is really cutting 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 know perfectly well that what they are doing is they are capping expenditures. They are capping expenditures several percentage points below what they know the cost of expenditures will rise in health care and then guaranteeing, therefore, the sequestering followed by the reduction in services on all fronts of health care for Medicare patients. Then the only way you can get out of it is through a supermajority, which I would assume is two-thirds of the Congress, both the House and the Senate, 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 premiums will be increased, as 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, if you have fee for service and 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 say it all they want. You can say the Moon is made out of cheese, but that does 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 who just wrote me 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. Their total income per year with Social Security, 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 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 $40 a month welfare. 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. WELLSTONE. Will 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 50 percent 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 prescription drugs. 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 go up?

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 not know why they are doing 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 feel that. I hope 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 PRESIDING OFFICER. 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, and that 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 Democrats have proposed, 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 to 2012 and into 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 cuts, 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. Or we can do nothing and we can 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—never real reform, 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 vote to raise your taxes. But if there is any talk about tax relief for American families, hard-working families, they just demagog 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 food, 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. Fearmongering—they do not 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 beyond.

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 grandmother is one that got one of these scare tactic letters from her Democratic Congressman in northern Minnesota. It said that somehow the Republicans 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 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 do not know why a $500 per child tax credits somehow does not work in with their plan.

Another thing, the $270 billion in reforming Medicare. Now, if we do not do this, again, the trustees are saying it will go broke, that somehow Medicare—we know that over the next 7 years any savings in Medicare has to remain within the trust fund. There is a fire wall.

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 some tax relief for hard-working Americans who have been paying $245 billion—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 American residents and hard-working middle-class families, that somehow this whole country is going to unravel; if we take this $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 afford to pay taxes to let the Government do it? We cannot.

If we cannot as a society, as individuals or as families, somehow afford this, is the Government automatically going to have enough money in Washington? They will tax it away. Washington does not create wealth. It collects 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. WELLSTONE. Will the Senator yield?

Mr. GRAMS. I just have a few minutes left.

The PRESIDING OFFICER (Mr. ABRAHAM). All time has expired.

Mr. GRAMS. I think this is something that is so important that we cannot ignore it, and we have to make sure that Medicare is preserved and protected not for an additional 2 years but for the next generation.

I yield the floor.

Mr. FRIST. Mr. President I yield 8 minutes to the Senator from Wyoming.

Mr. THOMAS. Thank you, Mr. President.

I come to change the tone a little bit. I have been sitting here for 5 hours and have heard nothing but negative, depressing kind of things.

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, and expect something different to happen by doing the same thing. I do not understand that.

That is what we have heard all afternoon. Do not change anything. Things are not good, but do not change them.

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 encouraged over the years—properly—to develop 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 a limited service hospital, still be reimbursed by HCFA, the Federal Government for stabilizing facilities, 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 this program expire. We are going to reinstate that. The purpose is to assist facilities in high Medicare patient loads to continue.

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 levels HMO payments in Medicare. There is a great disparity now. We settled that on the basis of fee-for-service as it existed. In Bronx County, New York, $678 can be paid per month for HMO's and Medicare; Fall River County, South Dakota, on the other hand, gets $177. We will fix that. That is good for rural America.

Medicare bonus payments to physicians will be increased from 10 percent to 20 percent. We talk about bringing service 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 being opposed—there are some very 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. SARBANES. Mr. President, I rise today to join my Democratic colleagues in expressing deep disappointment 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 hearings organized by Senators KENNEDY and ROCKEFELLER because it was—and remains—my 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 testimony from the trustees of the Medicare 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 annual report on 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 $270 billion is required to address the problems 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 short-term solvency issues of the Hospital Insurance Trust Fund. In a recent letter to Republican leaders DOLE and GINGRICH, Secretary Rubin specifically states, and I quote him:

> 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 of the trust fund 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 believe as you say you do, 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 thought as to what its implications are 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 was given, in my judgment, by 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 all so simple. Cut middle-class programs as much as possible and give the money back to private-sector business, finance and high-income taxpayers. Rhetoric about the cuts being to save Medicare is politics, not underlying 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 $245 billion over the same period. This is no coincidence.

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, means to make 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 approve 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 not 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.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. 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 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 it is growing at a very robust clip of 8.4 percent. But 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 the year 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 targets.

Ask 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 anyplace 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 reduction 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. And if Congress wants to bite the bullet and take action before the President does, we can and we should and we will.

The PRESIDING OFFICER. Who yields time?

Mr. FRIST. Mr. President, I yield 7 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

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 issue. I compliment him 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 part A. I think that is an excellent amendment, so I compliment 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 agreeable or acceptable to anyone.

Some say the $89 billion would solve the problem. It does not 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 and 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 in—that is paid for by a payroll tax. Presently we are paying 1.45 percent; the employee pays that. The employer matches that. So it is 2.9 percent of payroll going to fund Medicare. That is what we are doing today.

When we have had problems in the past, how have we financed it? We have financed it with a big increase in payment, in taxes. That is what the trustees said we are going to have to do. We are going to have to have big payroll tax increases to solve the problems in the trust fund or we are going to have to reduce the rate of growth of expenditures.

We elected not to increase taxes. That is unheard of. Because I will tell 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 1993? 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 $270 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 said 6.4 percent. I have said that. 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 the President's figures were for Medicare. Guess what? He proposed changes. 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 174. In 1996, we estimate we are going to spend 193 in our proposal; 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 $1.655 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 granted that he uses OMB and a rosy 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:

MEDICARE SPENDING COMPARISONS

[Gross mandatory outlays; dollar amounts in billions]

	1995	1996	1997	1998	1999	2000	2001	2002	7-yr total	7-yr average
Senate Reconciliation	$178	$193	$207	$220	$234	$250	$267	$286	$1,655	
Growth over 1995		$16	$29	$42	$56	$72	$89	$108	$411	
Percent growth		9	7	6	6	7	7	7	61	7.0
President II	$174	$192	$208	$223	$239	$254	$271	$289	$1,676	
Growth over 1995		$18	$34	$49	$65	$80	$97	$115	$458	
Percent growth		10	8	7	7	6	7	7	66	7.5

Sources: CBO & OMB: Provided by Senator Don Nickles, 10/24/95.

INTENSIVE CARE—MEDICARE TAX RATES AND WAGES SUBJECT TO TAX FOR A SELF-EMPLOYED INDIVIDUAL 1966 THROUGH 1995

Year	Maximum taxable amount	Contribution rate (percent)	Amount
1966	$6,600	0.35	$23.10
1967	6,600	0.50	33.00
1968	7,800	0.60	46.80
1969	7,800	0.60	46.80
1970	7,800	0.60	46.80
1971	7,800	0.60	46.80
1972	9,000	0.60	54.00
1973	10,800	1.00	108.00
1974	13,200	0.90	118.80
1975	14,100	0.90	126.90
1976	15,300	0.90	137.70
1977	16,500	0.90	148.50
1978	17,700	1.00	177.00
1979	22,900	1.05	240.45

INTENSIVE CARE—MEDICARE TAX RATES AND WAGES SUBJECT TO TAX FOR A SELF-EMPLOYED INDIVIDUAL 1966 THROUGH 1995—Continued

Year	Maximum taxable amount	Contribution rate (percent)	Amount
1980	25,900	1.05	271.95
1981	29,700	1.30	386.10
1982	32,400	1.30	421.20
1983	35,700	1.30	464.10
1984	37,800	2.60	982.80
1985	39,600	2.70	1,069.20
1986	42,000	2.90	1,218.00
1987	43,800	2.90	1,270.20
1988	45,000	2.90	1,305.00
1989	48,000	2.90	1,392.00
1990	51,300	2.90	1,487.70
1991	125,000	2.90	3,625.00
1992	130,200	2.90	3,775.80
1993	135,000	2.90	3,915.00

INTENSIVE CARE—MEDICARE TAX RATES AND WAGES SUBJECT TO TAX FOR A SELF-EMPLOYED INDIVIDUAL 1966 THROUGH 1995—Continued

Year	Maximum taxable amount	Contribution rate (percent)	Amount
1994	no limit	2.90	unlimited
1995	no limit	2.90	unlimited
Total taxes paid (1966–93)			22,938.70

Mr. FRIST. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator has 13 minutes and 40 seconds.

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 is the phrase. It was rather strained a time or two, and 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 indeed it will.

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 ordinarily, but this forum does 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 into their oatmeal 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 do not have a "less" 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 ourselves—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 to come in and talk about you only need $89 billion to save Medicare, and leave off part B? How really phony can you get when you want to know, ladies and gentleman of America, that part B premiums are totally voluntary, they are not part of any Contract With America, and they were not part of any contract with senior citizens. In every sense, it is an income transfer. It is a welfare program because right now the senior citizen who has chosen to accept this is paying 30 percent of the premium, and the people who maintain this magnificent building at night when we are not here are paying 70 percent of the premium. I hope somebody will figure that one out.

So I want to watch the votes. Again, how we are going to handle part B premiums when we have this peculiar situation, to say the least, where "Joe Six-Pack" is paying 70 percent of the premium for somebody who is "Mr. Megabucks." If you want to get into this business about "the little guy," let us get really into this one. This is about the little guy, the guy that does not have anything, and he or she is going to work every day to pay 70 percent of the premium for everybody in Medicare part B. That is absolutely absurd.

So I am anxious that we do cast some votes in that area. We will smoke them out and see who really is for "the little guy".

Then, of course, we will see a unique and remarkable experience. We will get there in conference. The President of the United States has said that Medicare will not be allowed to go up over 7.1 percent, and we are saying we will not let it go up over 6.4 percent.

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 not know 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 one.

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 it a 7-year budget because 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 from 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 homeless, 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 who even have a thing 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 ready for it. 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 are just a tattered band of ragamuffins. 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 investments, from New York Life, from 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 continue to send our $8 dues to them 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 politics. 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 because they have got these poor people absolutely frightened. 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 expenditures at twice the rate of inflation, and call that a cut. Only in Washington can you be taking 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, totally negate, forget what is going to take place and come forth with not one constructive suggestion as it relates to how you are going to keep Medicare from going bankrupt.

They do not come forth and say anything. No, just spend it and spend it and bankrupt us in less than 7 years. There will not be any Medicare. Then what happens to the seniors? What do they say? They say you are cutting so you can give taxes to the wealthy. Nonsense. Mr. President, 70 percent of any tax advantages are going to go to working families in America; $141 billion out of the $224 billion that will be coming in cuts go just for the $500 per child tax credit— $141 billion. That is about 60 percent.

We hear yelling and screaming about the families, when we do something for adoption, when we do something to take care of the marriage penalty, when we do something to equalize and strengthen the family and give people IRAs, working families, middle class families, not millionaires, not businesses, when we say, by the way, that those people who have incomes of $150,000 should pay for their own health insurance. A retired person with $150,000, by gosh, should pay for it, not working middle-class families subsidizing the wealthy.

That is what we do here. We hear nothing but demagoguery. I cannot believe it. I wish to tell you something. You do a great disservice to the American people with that kind of rhetoric. I think we will demonstrate quite clearly that we are the party that is responsible.

Here is the President's status of Social Security and Medicare Program, a summary. This comes out by the President, his commission. Three of his Cabinet officials are there. And I read the first page. It says, "The Federal Hospital Insurance Trust Fund will be able to pay benefits for only about 7 years and is severely out of financial balance long range."

What do our friends on the other side say about correcting that? Nothing. And we come forth with a program. They have had months and months to work with us. Do they offer any constructive suggestions? No. They demagog the issue. They say to people, they are going to cut your benefits. That is not true. They say, they are going to cut your benefits and give tax breaks to the wealthy. That is not true. They say, they are going to give you less. And, indeed, we are increasing that program again by $110 billion more.

Somehow we have to do a better job to get the message out. But that does not negate the negativism, 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 legislative 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? There are 25 seconds.

Mr. DOMENICI. How much time do I have to yield?

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.

Mr. DOMENICI. Let me thank Senator BROWN from Colorado for originally coming to the floor with this second-degree amendment and helping us out. He did a very good job. And for those who spoke the last 2½ hours on our side, I think we have all done a good job.

The PRESIDING OFFICER. Time has expired.

Mr. DOMENICI. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. SNOWE). Without objection, it is so ordered.

Who yields time to the Senator from Washington?

Mr. ABRAHAM. Madam President, the majority leader yields to the Senator from Washington such time as he needs off the bill.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GORTON. I thank the Senator from Michigan.

Madam President, we are at the beginning of a debate over the most important piece of legislation that this body has considered during the course of the last decade. We have before us a proposal which will lead the United States to its first balanced budget in 26 years. Yes, Madam President, 26 years.

That proposal includes with it a plan to preserve, to protect, and to strengthen Medicare to see to it that the Medicare trust fund or hospital insurance does not go bankrupt; fairly to distribute the costs of Medicare part B, fees for physicians and for medical care across the course of the population; to provide our seniors with a greater degree of choice than they have at the present time and the selection of the way in which they receive their health care, one which will allow the expenses for Medicare to increase in each and every year during the time during which we are balancing the budget; a plan, a budget which will also ultimately include in it genuine welfare reform, reform of a system which has actually made worse the very conditions it was designed to alleviate in the first place, a welfare reform which will emphasize work, families, and hope for the future; and finally, but not at all incidentally, Madam President, tax relief for the hard-working American families in the middle class, those who are working and contributing to their society, those who are providing for their families and for their future.

Madam President, in the almost 13 years during which I have served in this body, 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 not as though we were presenting one alternative vision of the future and the opponents were presenting another valid, arguable vision of the future. We are presenting a plan, an idea, a course of action, and the other side is defending the status quo. They do not wish to propose an alternative.

The President of the United States has, in vague and general terms, proposed an alternative budget, a budget based not on projections made by our Congressional Budget Office, the office the President himself said should be the common ground of all proposals on future spending and tax policies. No, the President's proposal is based on his own figures, taken almost out of thin air, but, nonetheless, it is a proposal, Madam President, a proposal which was rejected by a vote of 0 to 96 in this body earlier this week. The President's party in this body does not propose to follow the course of action that the White House has outlined.

It simply proposes to vote no on all of the changes which we have advanced in this reconciliation bill.

But perhaps most significant, I believe, in connection with this debate is the estimate, the projection that our Congressional Budget Office has made conditioned upon our adopting these spending reforms and passing a statute which will lead to a balanced budget even 7 years from now in the year 2002.

The Congressional Budget Office has said that if there is in law a realistic and effective set of statutes, which it and independent economists can say with a high degree of confidence will balance the budget even after the turn of the century, then, in its view, the

economy will grow sufficiently to provide an additional $170 billion in revenue as a result of a growth of the economy itself and as a result of lower inflation and lower interest rates—$170 billion, Madam President, for the Government of the United States. But that figure is not the total of the benefit to the people 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 be? It will be in the pockets of the American people in the form of higher wages, 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 which 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. No, we cannot 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 of the most rapidly growing of our major entitlements—Medicare; that we can and should continue to say that the overwhelming bulk of the cost of Medicare should be paid by today's working people, even when that means that hard-working, middle-income Americans are paying for more than two-thirds, almost three-quarters, of the health expenses of wealthy, retired Americans—millionaire retired Americans. No, we cannot make these reforms. We should not make any changes. Everything that Congress has done in the past, all of the programs it has passed in the past should and must be continued.

Well, Madam President, I must say that the choices are relatively easy choices. With all of the difficulties and with all the changes in direction, with all of the groups with genuine or imagined concerns, we have a plan, we have a vision that will lead to a stronger America. Our opponents do not. It is time for us to move ahead, to do what we committed ourselves to do during the course of last year's election campaigns—to pass this proposal, to settle our differences with the House, and then, from a position of strength, to persuade the President to keep the commitments that he has made at one time or another, which, of course, included all of these elements—a reform in our Medicare system, a balanced budget, changing welfare as we know it, and a tax cut for middle-income Americans.

Every one of these four elements in our program is something that the President of the United States has promised or committed to at some time in the past and has since, to a greater or lesser degree, repudiated. We want to keep our commitments; we want to keep his commitments. The only way we can do so is by passing this reconciliation bill.

Madam 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. ABRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ABRAHAM. Madam President, I yield myself such time as needed.

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

Mr. ABRAHAM. We have heard today a number of arguments made on each side relative to the topic of the tax cut provisions in this legislation, and I think it is important for the American people to understand the clear distinction that exists on the two sides of the aisle over the issue of taxes.

Today, the Republican tax cuts that are part of this legislation have been described as tax cuts for wealthy Americans. They have been described as unfair. They have been described as unneeded. They have been described in a variety of other ways.

I think it is important before we analyze those tax cuts and who they really benefit, to begin by just stepping back from today and looking at some of the things that have transpired here in Congress in recent years. I find it interesting that the people who are on this floor attacking the tax cut provisions of this legislation are the very same people who just in the last Congress voted to raise the taxes of working Americans by $270 billion, the largest tax increase in history.

Indeed, it is very simple, I think, to differentiate between the parties and their positions on taxes. There is one party, the Republican Party, that is presenting Americans today with middle-class tax cuts; there is another party that in the last Congress raised taxes a record level of $270 billion.

I think that the opposition to the Republican tax cuts that are proposed in this legislation should not surprise anyone. It is coming from the people who already raised our taxes by a record amount, and who would hate to see those taxes go down at all.

The fact of the matter is, Madam President, that taxes represent the hard work of people in this country who are out playing 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 families in Michigan like my own sent $1 to Washington for every $50 they 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 today 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 U.S. Senate as to why it is; why is that 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 of 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 interest on 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 low.

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 borrow money from 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 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, because as we 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 also will 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 into the housing market, as they go out to buy a car for the family, as they go out to make other purchases that are affected by interest rates, they 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 ever even talked about in the Senate, before it was addressed, before anybody put a pen to paper 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 Americans.

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 the first year of this 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 will 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 5 years. And 70 percent of the proposal's 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, quite the contrary.

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 the next and 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 62 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 at $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 go to wealthy people, as defined by some people here in Washington, just is simply not the case. Of course it is not the case.

Madam President, $141 billion, 62 percent of the tax cut, is the family tax credit, $500 per child, letting families keep $500 per child to spend, to try to make ends meet to provide those children with a better way of life.

Another important part of our tax credit in 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 costs. The credit phases out. This is important. It phases out between the taxable income levels of $60,000 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 loving homes and a few of the dollars necessary to make it possible for those adoptions to be carried out in a way that provides children with a better chance for their future.

The next part of it, another family-related tax section, is $12.3 billion to try to provide relief from the marriage penalty that we impose under our Tax Code. Maybe some people who make more than $100,000 will benefit from the elimination of the marriage penalty, but I hardly think anybody wants to come to the floor of the U.S. Senate and argue we should not eliminate this marriage penalty. It makes no sense for us to have ever done it in the first place.

Another part of our family tax relief is student loan interest deduction. That is another $1 billion. Once again, it is limited in scope to people who have adjusted gross incomes of between $40,000 and $55,000 for singles and between $60,000 and $75,000 for married couples. After that, this deduction is not available. Again, a deduction aimed at helping people of moderate means to try to better and more easily finance college educations.

On and on I went through this tax program. What I discovered was that in almost every section, the entire focus has been to try to provide middle-class families with tax relief, to try to let people keep more of what they earned, to try to allow families in this country to offset some of the hardships that come about when the Federal Government consumes too many of their dollars.

That does not mean that every part of the bill primarily benefits people of middle-income backgrounds. Yes, there are sections aimed at trying to create growth in our economy, that disproportionately benefit people and, to some extent corporations, people of greater means and corporations. Interestingly, though, a very substantial percentage

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 will hire more people, we 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 loopholes largely offsets the tax advantages that are provided to 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-income 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, progrowth tax measures that are 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 the 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 working 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 Government in our 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, just completed.

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 business sector of the private sector that with interest rates going down, it is really going to encourage small businesses to create more jobs. They are the engine. Small business 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 centerpiece of 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 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 over in January we transformed our contract into New Year's resolutions with the American people. We said that we are going to put this bloated Government on a diet. Then for the last 10 months, we have been following a regime to achieve our resolution.

What happens 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 cutting spending—that is all of 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 Wednesday, Thursday, and Friday. 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 alternatives. 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 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 never before was he 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 agree with the Republicans, that it ought to be done in 7 years and can be done in 7 years.

But for the most part, all we have heard from the opposition is naysayers. This diet that we Republicans want to put the Federal bureaucracy on, the other side has been saying no to, 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 in our head says, "I cannot do this. I cannot do this." That little voice says, "Let us wait until manana." 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 our reconciliation bill before us. The other side, without shame or credibility, are naysayers to this process.

Madam President, sometimes to achieve the best results we ought 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 things around and 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 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 us 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 then hence 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 comports 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 summed up in just one word. That one word is six letters, 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 a great country 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 we have a balanced 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 be clear. We talk about 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, DC, 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 1996 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 states 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, as we reduce 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 will soon be retiring 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 can't do this today. I will do it 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—would mortgage our future. Can you imagine the nerve of the President saying the Republican balanced budget will mortgage our future when we have been mortgaging our future for the last 30 years because it was 1969—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. I do not know really why he said it. I would like to know why. 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 so-called mortgage that 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 New Year's resolution. They can only offer 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, we returned after Labor Day, the President was invited to the Hill—not to the Hill, wherever the President

wants to sit down with Republican leadership to talk compromise, work out differences. The President then would have to put his wares on 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 Constitution, a balanced budget, 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 carping 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 Democrat trustees, 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 destroy our children's futures because that is what the President's 10-year balanced budget program—even though 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 still 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 of 80-some percent 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 carping from the other side of the aisle and from the White House that has no program 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 now been on this bill 6 hours—let us see, I believe a little over 6 hours, 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 bill, which everybody on the other side of the aisle is 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 man and wife 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 people in this country make 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 cleanse my skirts—who voted for every one of President Reagan's spending cuts, but I voted against that massive tax cut. If everybody had voted the way FRITZ HOLLINGS, BILL BRADLEY and DALE BUMPERS voted, we would have had a balanced budget. But, no, we had to give the store away. General Electric made——

Mr. INHOFE. Will the Senator yield?

Mr. BUMPERS. No.

General Electric made $3.7 billion in 1983 and got a $700 million tax cut. That was all $3 trillion ago, $3 trillion from the promise of a balanced budget. In only 8 years, our $1 trillion debt went to $3 trillion. You talk about snake oil.

So what are we doing here? Are we going to pass an amendment that says the tax cut cannot come out of the Social Security trust fund? If you want to balance the budget, forget the tax cut. CBO says that without the tax cut we can balance the budget in the year 2001, a year earlier than under this budget. How is the tax cut being paid for? Out of Medicare, out of school lunches, out of Social Security, out of student loans, out of the earned income tax credit, out of agricultural programs. It does not make any difference which spending cut you say is the source of the tax cut. It does not matter.

What matters is that we are giving away $220 billion to $240 billion in taxes that ought to go on the deficit or, at a minimum, be placed back in those programs like school lunches and Head Start and student loans and things that give people at the bottom of the ladder a fighting chance to become somebody.

I got that chance when I went to one of the best law schools in the country on the GI bill, and I have been trying to pay it back ever since by reaching from the top of the ladder down to people on the bottom rung and bringing them up, because I think that makes me better and it makes our country stronger.

I consider this 2,000-page monstrosity of a bill, that must weigh at least 10 pounds, I consider it one of the worst disasters to befall this institution called Congress. You think of it—penalizing the elderly, penalizing poor children, penalizing the most vulnerable among us while we give away 76 percent of the capital gains tax cut to the wealthiest people in America. Meanwhile, we continue to sell lands for $100 an acre when the mineral rights are worth thousands of dollars an acre. So the StillWater Mining Co. in Montana will pay $200,000 for a plot of land worth $38 billion in platinum and palladium. We are giving away taxpayers' property while we penalize the most vulnerable among us.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. HEFLIN. Mr. President, the Senate will soon be faced with an up-or-down vote on proposals of mammoth proportions. These proposals will directly affect virtually every segment of the government and every citizen of this country. For some, the consequences will be positive. For the vast majority, however, the consequences will be bad—in some cases, like for the elderly, students, and working class, the effects will be economically devastating.

While this package as written will significantly reduce the deficit, at least in the short term, there is considerable doubt as to whether or not it will ultimately balance the budget by 2002. Some of the savings are artificial or even lose money despite producing CBO-scored savings. As we all know, future congressional action is likely to reduce other savings currently assumed by this plan. A major portion of the projected savings in this plan come from Medicare and Medicaid. Welfare reform, nutrition programs, the earned income tax credit, farm programs, and student loans are other areas facing enormous cuts.

I am strongly in favor of deficit reduction and, ultimately, the elimination of the national debt. I have long supported a balanced budget amendment to the Constitution. I supported

the 1993 reconciliation bill which has already led to significant reductions in our annual deficits. But as with any omnibus legislation of this type, there is a right and wrong way to pursue the same goal. Themes and patterns emerge. Priorities and process do 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 inevitable result from cuts of this magnitude on those least able to absorb it—working people, the elderly, students. There is a bitter flavor that this package 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 theme throughout is to benefit those who have already benefitted 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 $270 billion over 7 years. In addition to 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.

It is my understanding that $89 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 is needed to preserve the 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. Specifically, this bill would cut inpatient hospital service, 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 $54. 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 indefinitely 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 America's 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 state share would be 56 percent—a 13-percent increase 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 have health needs, regardless of the payor source. 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, not repeal it. It would restrain 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 paying for care to vulnerable Americans.

These proposed cuts in Medicare and Medicaid funding would also have a devastating impact on hospitals and health care systems since providers will take the brunt of $270 billion Medicare reductions. Alabama would get $1.45 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 will be cut by $57.9 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. Hospitals 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, these 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. So, 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 for doctors and this plan 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 costs. The savings from the Wetlands Reserve Program, for example, do 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 payments. Each school would 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 saving money, this change would only produce paper savings as a result of new scoring rules adopted by the majority.

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 millions of academically qualified students? The bottom line is that to the vast majority of families who depend on student loans to pay tuition, slashing student loans will mean the difference between enrolling their children in college and not sending them.

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 of families and millions of others across the country will see this benefit evaporate. Approximately 17 million low-income working Americans will see an immediate tax increase averaging $302; that tax increase will grow to an average of $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 becomes law. It is fundamentally unwise 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's priorities are misplaced, 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 with the 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 thank them 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 from New Mexico 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 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 decreased, 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 most significant tax reductions 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, 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, are the ones 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 large 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 order for 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 bill clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM] proposes an amendment numbered 2950.

At the end of chapter 6 of title VII, insert the following:

SEC. . BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—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 individuals and entities who are engaging or who have engaged in acts or omissions which constitute 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 for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or 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).

(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 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.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, on our time, I know a lot of Senators are in their offices and are wondering what we are doing. They have a right to wonder. I will explain that we had an understanding with the Democratic leadership that we would set aside in a status quo the previous motion to recommit and the amendment to it, leave it in a status quo format, and proceed to another amendment.

The other amendment is the amendment that Senator ABRAHAM offered. It is being reviewed, but I believe we ought to proceed with it. Why are we doing this? I think everyone knows that, since shortly before noon, we have been working with the Democratic leadership, and they have been working very hard, from what I can tell—and I truly believe that—to see if we cannot narrow down the number of amendments and establish some process which will be more orderly than just waiting until the end and having hundreds of amendments just offered. We are working on that, and we have not yet reached an agreement. We have agreed to take up the Abraham amendment in the normal course. We will take an hour, and that side can take what time they need. This will give us some time to further our negotiations, which will continue in a very lively manner.

I yield the floor.

Mr. FORD. Will the chairman of the Budget Committee answer a question?

Mr. DOMENICI. Of course.

Mr. FORD. As I understand it, we have a motion before the Senate and then we have a first-degree amendment. We do not have an amendment in the second degree here; is that right?

Mr. DOMENICI. We have a motion to recommit.

Mr. FORD. And then we have an amendment in the first degree. We have used up all of the time allotted, unless we get unanimous consent on both of those; is that correct?

Mr. DOMENICI. That is correct.

Mr. FORD. We have set both of those aside in this agreement here, and we have an amendment in the first degree.

Mr. DOMENICI. Which is totally separate and distinct, yes.

Mr. FORD. Now, this amendment has 2 hours. At the end of the 2-hour period, an amendment in the second degree, which would have an hour, would be in order; is that right?

Mr. DOMENICI. Correct.

Mr. FORD. I thank the Senator.

Mr. EXON. Will the Budget Committee chairman yield for a further question?

Mr. DOMENICI. Sure.

Mr. EXON. If I have understood what you have said, this is a Republican amendment, and 1 hour is allocated on that side and 1 hour on this side. If this side of the aisle only uses 5, 10, 15, or 20 minutes, then we would only be charged with that on our total 10-hour allotment; is that correct?

Mr. DOMENICI. The Senator is correct.

The PRESIDING OFFICER. That is not correct.

Mr. DOMENICI. What would happen, Senator, is 1 hour and 10 minutes is charged against the bill if you use 10 minutes and we start from that point to allot time again; if you used an hour and we use 10 minutes, 1 hour and 10 minutes would be charged against the total hours of the bill and we start from that new point.

That is no different than it has been forever.

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 allocated 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 take but say 10 minutes, then we lose 25 minutes of which they could get on the next amendment.

It seems like there ought to be some other way. If we did not want to use our time or the Republican side did 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 told that to 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 that we have is 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 key, very important amendments.

I am not saying that the amendment being offered by the Senator from Michigan is not an important one. It

probably is. But compared with the many amendments we have ready to offer and want to vote on this side—another way of saying this. I am very much disturbed by the fact we are continuing to use up the time.

We only have a total of 20 hours to debate the most far-reaching reconciliation bill, maybe the most far-reaching bill that has ever been presented to the U.S. Senate, when you consider all of its implications.

I recognize we may be playing by the rules but the rules in this particular instance might not be fair. I appeal once again as one who has worked on this all day long. I wish we could start voting up or down on the important amendments.

I do not believe that we should or could under the dictates of the 20-hour maximum limit, that we should be taking an hour on each side to debate the amendment that is being offered by the Senator from Michigan. It may be something, when I know more, that I will fully vote for.

I think time is wasting and I wanted to make that point. I yield the floor.

Mr. DOMENICI. I just want to say I think we have explained that we are using the time usefully. We are using the time usefully to try to make a better arrangement for the rest of the bill. We ought to be through with that soon.

Mr. ABRAHAM. Mr. President, I have sent an amendment to the desk which has been read.

Mr. President, the savings necessary to rescue the Medicare program from bankruptcy will not be found solely through eliminating waste, fraud and abuse. Nevertheless, I believe it is incumbent upon us to diligently pursue and root out every vestige of inefficiency in the system.

Therefore, I am offering this amendment which I think will produce additional vigilance in the ballots against Medicare waste and fraud. This amendment calls on the Secretary of Health and Human Services to establish programs that enlist Medicare beneficiaries in our efforts to eliminate waste, fraud and abuse in the Medicare system.

These beneficiary incentive programs, as they would be called, would come in two forms: One program would reward individuals who report fraudulent activities; the other program would reward individual beneficiaries for suggestions they make which result in greater efficiency and overall savings to the program.

The Secretary of Health and Human Services would be responsible for setting up each program and for providing financial remuneration to those individuals reporting instances of tangible fraud and waste.

The Senate Finance Committee's reconciliation package currently does not contain a beneficiary incentive program or provision. The amendment I offer would include in the Senate reconciliation bill language which is similar to that currently in the House proposal.

It is difficult to explain to Medicare beneficiaries why dramatic changes in the program are necessary to keep it from going bankrupt when many 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 paid.

Those kind of circumstances make at least my constituents who are part of the Medicare Program frustrated, 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 program.

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 and suggestions in 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 recommendation 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 kind 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 aisle. 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, other 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 $54 billion in losses during the next 7 years. That breaks down as $36 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 540,000 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. What is, obviously, the likely result? 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 and look and see what is happening to the county hospital. In the 58 counties of my State, county hospitals—like San Francisco General in San Francisco or Martin Luther King, Jr., General in Los Angeles, will lose an estimated $150 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

must honestly say, immoral. Because the answer to the question has to be, no, it is not necessary.

When you add it all up, you know that these cuts are as deep as they are for one reason, and one reason alone—to provide an enormous tax cut in this bill, while the poor get hit hard by the changes in the earned income tax credit.

I am one Democrat who supports a cut in capital gains, but not on the backs of poor people. It is simply not what we are supposed to do—either party, Republican or Democrat.

I have a basic philosophical belief. What Government should do is those things that the private sector cannot do. So Medicare and Medicaid are an important part of that philosophy. To take these deep cuts at this time, all at once, without any hearings or full knowledge of how these cuts will fall?

What does happen to the five great teaching hospitals?

When do they have a chance to give testimony and indicate what they can or what they cannot save? What does happen to 540,000 seniors who depend upon Medicaid to make their Medicare premium and copayments? What happens to them? We have not discussed it. Nobody knows.

What happens to the county hospitals, already cut deeply, the major providers of indigent care in many areas across California? The DSH payments are not going to be enough. What happens to the affected AIDS/HIV community, more dependent on Medicaid than any other single program?

These are questions that deserve a hearing. These are questions that deserve the wisdom of both parties sitting down and working it out.

Mr. President, I am delighted to see the Senator from Arizona in the chair, because we just had an example of where we can work together. He and I both know that the majority leader, and you as a major author, did not have to compromise on the Jerusalem bill we recently considered on the floor.

You had the votes to do it without it. And, yet, your feeling was—and I think correctly so—that it would be a better bill, with less divisiveness, if we sat down and tried to work out our differences. And, Mr. President, you and I and others sat down at least twice and we worked out our differences and we were able to produce a bill that got all but five votes in this esteemed body.

I really think that is the way our people—those people who elected us—think that is what they elected us to do. They didn't elect us to be so partisan that we drive a divisive wedge into two of the most important programs, Medicaid and Medicare, that touch human lives in this country.

I will tell you honestly—God strike me dead if it is wrong—I do not know how the State of California is going to cope with these cuts. They are deep, they are wide and they are enormous for a State that has a growing poor population, 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, how 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 out of 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. And 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 Congressional 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 in 2002 under 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 outyears of this decade. And true, Medicaid and Medicare are partially 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 types of this country, 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—true story, 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 bit 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 budget 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 that the 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 more severe the problem is, and the more the severe the adjustments we have to make. And we should recognize that when you are dealing with retirement or with health care, if there is a requirement to save money and accumulate reserves, as there is with our trust funds, that 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 whole 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 I am not objecting to making tough choices. I am not objecting 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 because the longer you wait 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. I think 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.

In short, 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. I have identified a second one.

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 appropriations accounts. It severely restricts 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 5 or 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 may have run aground. But Americans should not suffer under the illusion that is there is 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 it 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 for health insurance in this country. And rather than saying we are going to just change Medicare and reform Medicare, we ought to be reforming Medicare, Medicaid, the income tax deduction, and the VA system—establishing a simplified system of eligibility saying, if you are an American and a legal resident, you are in but you have to participate personally in controls. We are not going to subsidize you, if you do not need to be. We have to, rather than block granting for budgetary reasons, have a new safety net.

If we want to remain an aggressive market economy where our businesses have an incentive to maintain their productive edge, we have to have a safety net that enables people when they find themselves out of work to still know that they have health insurance, and still know that they are going to be able to pay the medical bills.

I was down in Texas over the weekend and discovered in the State of Texas, a relatively conservative State, that 50 percent of all babies delivered in the State of Texas are paid for by Medicaid—Medicaid, Mr. President. This is supposed to be a poverty program, and it is supposed to be a minimal safety net.

The reason that it is increasingly being used by working people is that we do not have a very good and a very flexible program. We are saying, as many Republicans have come to the floor and said, there is something wrong when I have working people without insurance paying a 2.9 percent payroll tax to fund health care programs for some that can afford to pay the bills. There is something wrong with that.

But to reconstruct the health care safety net, we cannot just adjust the payment system in Medicare. We cannot just block grant Medicaid. We ought to be saying let us re-establish a fundamentally different way of becoming eligible for health care, and then let us make sure subsidies go to those who need it, and make sure we provide people with the basis as well, as both Republicans and Democrats have talked about, and accumulating the resources to be able to pay for it.

Mr. President, if this proposal in addition to balancing the budget fixes the cost of entitlements, instead of the Republicans looking across the aisle and saying we are in the majority, we have looked at this Entitlement Commission report, we agree, we have 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 health care, 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 three 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. I know they are not comfortable 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.

I know there is the basis to produce a bipartisan reconciliation bill that we could send on to the President hopefully for his signature.

Unfortunately, that does not appear to be the direction we are heading. Unfortunately, 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 not discover we left the long-term problem in place: that we have constructed a safety net that is not adequate 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 Senator's time has expired.

The Senator from Arkansas.

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. President.

The legislation that we are considering 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 everything, 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 brought to us by our friends from the other side of the aisle. What was left out, what is notably absent is any Federal national nursing home standards.

Mr. President, only this week, in Time magazine, we 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 unanimous 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 pondering his or her sunset years will remember the exposé of the shocking conditions in nursing homes circa 1970. Woefully undertrained workers strapped patients to hard-backed chairs, fed them cheap diets and kept them in a whimpering state of sedation. There were tales of urine-soaked hospital gowns and of false teeth collected at night and thrown into a communal vessel that patients had to fish through in the morning. All this and more was documented by the National Academy of Sciences in 1986. The next year Congress passed legislation to address decades of abuse of the elderly by profiteering nursing-home operators.

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 part of a crusade to curb federal authority, and with only a simple assertion that the regulations are burdensome, two congressional committees have sent to the floor for a vote this week legislation that would repeal federal standards. There would be no protection against patients being restrained, no standards on staffing or when someone could be discharged after using up all his or her money. Niceties like nurses would be optional, since there is no requirement in the new legislation that a licensed nurse be present. Instead there would be so-called patient rights—to receive mail, keep personal belongings and be free from abuse and forced labor—rights that may duplicate, but do not exceed, the Geneva Conventions for prisoners of war.

Republicans justify the changes by saying the states know best how to run nursing homes. Of course, it was the failure of state regulation that got the reforms passed in the first place. It is unlikely that with $182 billion less in federal Medicaid money over seven years the states will embrace high-quality care. The market solution would be to replace that nurse's aide at $10 an hour with an unskilled worker at $5 and to substitute thin soup and macaroni for meat and vegetables.

In fact, it turns out that being humane actually saves money. Catherine Hawes of the nonprofit Research Triangle Institute estimated that after the 1987 reform legislation was passed, $2 billion was saved by 269 nursing homes from fewer emergency hospitalizations, 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: "Operators didn't know until they were forced to stop doing it that the main cause of incontinence and bedsores is being restrained and not being able to get to the bathroom." But wholesale budget slashing will no doubt pressure some facilities to cut corners. Senator William Cohen of Maine, one of the few Republicans to oppose the rollback, warns, "If we 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 regulations 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 hurtling along, fearless about sending Mom and Dad back to the future, to the day of nursing homes 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 regulatory 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 exactly the status of the residents who are living today in the American nursing home.

First, I would like, if I might, to show our colleagues the projected growth in the nursing home population. Today, we have approximately 2 million residents in American nursing homes. 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 can only imagine. 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, undoubtedly, they would vote to continue these present Federal standards.

For example, the choice of a physician, 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 remove? Just last week in the Senate Finance Committee, on a vote of 10 to 10, every Democrat voted for retention of these Federal standards, every Republican except one, Senator CHAFEE of Rhode Island, voted to eliminate all Federal standards in nursing homes.

What about the issue, Mr. President, of privacy in receiving mail and communications? What about the confidentiality 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 extremely dramatic and once again 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 patient or resident today: 77 percent need help in dressing; 63 percent need help in toileting; 91 percent need help in bathing; 66 percent have a mental disorder. And there is one more figure that did not make it to the chart, Mr. President. That is that over 70 percent of the patients today residing in America's nursing homes have no relative and no advocate out there on a daily basis visiting them or advocating their cause or trying to support bringing them a better quality of life.

Mr. President, there is also a letter being circulated dated October 24 addressed to our colleague, Senator DOLE, making one final plea to Senator DOLE and all of us in this body to restore these meaningful nursing home standards. It is signed by the American Health Care Association, by the American Association of Homes and Services for the Aging, by the Catholic Health Association, and down the line.

I ask unanimous consent that this letter all of us received in the Senate be printed in the RECORD.

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

OCTOBER 24, 1995.

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 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 resources 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 provision 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 reforms of OBRA '87 to a statutory direction that payors of services (both federal and state) must ensure the payment of adequate rates has proven a workable mechanism and should not be repealed.

Federal 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 linkage, this quality of care can not be sustained. It is our sincere desire to move forward with the quality of care provided in nursing homes, and recognize that the ability to do so is dependent upon the provision of adequate financial resources.

Sincerely,

American Health Care Association (AHCA)
American Association of Homes and Services for the Aging (AAHA)
Catholic Health Association
InterHealth
Horizon CMS
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 26, 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 20,000 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 recall, the bill 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 60 national organizations, representing consumers, seniors, providers, and state regulators. It was a painstaking process that worked. In fact, OBRA might depict one of the finest collaborative achievements ever in the history of health care legislation.

Manor Care proudly supported OBRA in 1987 because the legislation offered a valuable means of protecting and promoting the quality of life for one of the most vulnerable segments of our population. We must afford nursing home residents an environment which is safe and ensures their physical and mental well-being. OBRA '87 has been widely successful in accomplishing this goal.

Manor Care pledges to continue to meet these federal quality standards because they are reasonable, and have 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, these particular standards which have been on the books now not 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. "Decreases in Problem Areas." Physical restraints are going down; dehydration is going down; indwelling urinary catheters, 29 percent, going down.

What we are seeing here, Mr. President, are hard-won gains that we are about to eliminate in one fell swoop simply because this particular budget reconciliation does not contain Federal nursing home standards 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 we 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. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Parliamentary inquiry.

How much time is left on each side?

The PRESIDING OFFICER. The Senator from Michigan has 48½ minutes, and the other side has 26 minutes.

Mr. ABRAHAM. Thank you, Mr. President.

Mr. President, I yield myself such time as I may need to make a few brief comments with regard to my amendment, which I would like to bring us back to for a moment.

First of all, the issue of fraud and abuse in Medicare is a problem that has been widely recognized by Members of the Senate, and I would like to call attention to several Members who have been actively engaged in trying to ferret out 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 lot, who 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 investigative 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 the Senator from Arkansas; 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 investigate 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 also received Medicaid payments for speech therapy he never actually performed—and the investigation revealed that he had been paid for services "rendered to patients" several days after they had died. He was also observed using flash cards with a blind resident, and then billing for reimbursement.

Another case:

The owner of a Pennsylvania rehabilitation service was indicted for allegedly operating a scheme to defraud Medicare by submitting false claims for speech therapy provided to patients in nursing homes. The owner allegedly told speech therapists to recruit Medicare clients even though he knew their therapy would not be covered under Medicare.

Before submitting the paperwork for reimbursement, the speech therapists would rewrite their patient reports so that they would appear to be medically necessary rehabilitation services. The employees then allegedly falsified bills submitted to Medicare, including certifications by doctors that patients needed continued speech therapy, and also falsified patients' medical records.

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 before us is because it helps to address 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 we should address through this 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.

Mr. 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 Medicare issue and what we need to 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 travel 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 to 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 who 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 insisted that this provision 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 1960 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—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 helps 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 really not the most significant 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—it 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 promotes work, not welfare. 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 power back to the local communities, 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 become the laboratories of democracy. And so what we have seen in the last few years is Governors and State legislatures who have had to petition Washington, have had to come hat in hand to Washington and deal with some unelected 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 the thrust of this bill is, as I said, 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 did not become a wreck overnight, 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 25 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 the welfare rolls by up to two-thirds if 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.

This bill would provide 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 requirement 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 stay off welfare. It will 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 work and 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.

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 10 minutes to the Senator from Tennessee.

Mr. THOMPSON. Does the Senator 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 thank the Senator from Michigan. I 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 Ohio 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 in this country feel today—that our country is at a crossroads, that our chickens 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 those difficult choices have to be made.

We are talking essentially here about change, Mr. President—change from the way that we have done things in the past. Change is always somewhat painful. Change is never easy, but change we must have.

There are legitimate issues to be debated and discussed, without question. I think it is quite clear that there 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 ought to do those things that Government does best, that we should shrink the size of the influence of the Federal Government on people's lives, give more power back to the States, back to the localities, and leave more dollars in the pockets of people who earn those dollars. It is a pretty simple proposition.

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? Sometimes a Band-Aid can work perfectly well for short periods of time. But the question is whether or not we should apply that Band-Aid or do something more serious for the future. Although, surely, we agree 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.

There is even a legitimate debate with regard to a balanced budget. A while back, some were thinking maybe we did not really need one. Apparently, now we are all in agreement. We can debate those priorities, but, surely, we are all in agreement that we cannot continue down the road we are traveling on now, and that the next generation does not deserve it.

We can debate tax cuts. We can debate the effects of those tax cuts. But, apparently, we even agree across party 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 know 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 of the aisle 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 well past 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 changes being made have been here for 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 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 are coming in and who have been here a while. It is on our watch now, and we have to do something about what has been going on here for the last 40 years.

We have a lot of talk about the blame and partisanship on this side of the aisle and the other side of the aisle. I suggest that there is enough blame to go around, Mr. President. But we are now cleaning up after the act of the last few decades that was based on the proposition that we can eradicate welfare in this country, that we can eradicate poverty by spending more dollars on it. We spent $5 trillion and got about the same level of poverty, along with a lot of other socially undesirable results, which we surely must all agree on.

In 1965, the Ways and Means Committee estimated that the hospital insurance part A Medicare would cost $9 billion to finance by 1990. In 1990, hospital insurance actually cost $67 billion. That is quite a bit of disparity, even by congressional standards. Medicaid was intended to cost a billion dollars annually. Expenditures ballooned to $76 billion in 1992. In 1995, it went to $89 billion. That is just the Federal Government part alone. The States contributed $67 billion, in addition to that. False assumptions, which led to bad policies, which basically said, let us put this down and get to the next election and get an issue for the next election and on down as far as we can carry it, election after election, and let somebody else take care of the consequences. Well, we are now taking care of the consequences, we are taking care of those estimates that turned out to be so wrong.

What has that wrought? It is certainly more than an academic exercise. It has wrought a Medicare trust fund that is virtually bankrupt, a welfare system that is morally bankrupt: it has wrought a fiscal situation that is going to bankrupt the next generation if we do not do something about it. It has led us to a point where we have the lowest savings rate in the industrialized world. We have one of the lowest investment rates. We have a growth rate now that is about half of what it should be, about half of what it normally is coming out of a recession. That has resulted in leaving a legacy to those who come after us in a few short years of even higher and higher payroll taxes, of even higher interest rates, of not being able to compete in the international marketplace, and depending more and more on foreign dollars to subsidize our debt. That is what these miscalculations have wrought.

Yet, from everybody in this body, on both sides of the aisle, all you hear talk about is the "working person," or the "working family." Everybody is looking out for the working family. Everybody is taking care of those workers, and talking about the people in the upper income levels as if they were born that way and none of them ever worked. We know who we are talking about.

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 actually 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—that is what we have been doing for the working family. I can hear working folks all 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.

Apparently, the idea is not to come forth with any constructive idea at all, not to help contribute to the solution, but lay the wood on those who are trying to solve the problem, and to keep on taxing and keep on spending.

With regard to the Medicare solution, my friends on the other side are correct in claiming that their $90 billion solution would keep the Medicare trust fund solvent until 2006, but in 2010, the last year the Republicans would keep the trust fund in the black, the Democrats would leave it in the red.

That date is important, because 2010 is the year the human wave of baby boomers really hits—those baby boomer retirees. Everyone acknowledges that further changes in Medicare will undoubtedly need to be made at that time. It is a different situation entirely. To meet it on an equilibrium is what we are trying to do, or not to meet it already $300 billion in arrears.

My time is running out. I want to address the tax component that we have heard so much about. The claim, of course, that the problem here really is that we want tax cuts for those who do not need them, and, therefore, the Medicare problem would not be as big, I can only hope the Washington Post—every knowledgeable observer, Mr. President, and traditionally Democratic, have basically made the same statement. The Washington Post on September 25, 1995, said, "The Democrats have fabricated the Medicare tax cut connection because it is useful politically."

Mr. President, this business about tax cuts for those who do not really need them—I find it interesting, kind of parenthetically, and this is historically espoused by those who want higher and higher taxes. We just had the largest tax increase in the history of the country and now that is supposed to be locked in and not touched.

We meet every year, practically, in this body, and decide who does need it, who deserves it. This group this year deserves a tax break. This group this other year does not deserve a tax break. So we have a tax bill. We 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 money we ought to take and who we ought to give a little back to, continuously focusing on the "who," the "who"—not the what.

In other words, who is going to be hit? Continuing to focus on how to divide up the pie, not focusing on policies as to how to make the pie bigger.

My time, I am sure, is close to being expired, so I will address this in a little bit more detail at a later time.

In conclusion, I urge that we get down to serious business, that we put the details of this aside. It is painful. There are things in this bill of this magnitude that are going to pain us in various areas.

The bottom-line question is whether or not we will get this fiscal house in order. We take the first step, which is only a first step. If we do everything we are talking about and go through all the pain, this is just the first step. We will have to continue to do it year after year after year. I suggest we get used to it and get on with it.

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

The PRESIDING OFFICER. The Senator has 26 minutes 50 seconds, and the other side has 15 minutes.

Mr. EXON. Mr. President, in order of their recognition by the Chair in this

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 Illinois, 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 Republicans beating up on the President of the United States. I simply say that today the President announced that the year-end budget deficit was 160-some billions of dollars. That is the lowest deficit we have had for a long, long 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 leadership and 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, $290 billion, $255 billion, $203 billion, and so forth.

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 because there have been so many brick bats thrown at the President of the United States today.

I yield the floor.

Mr. DORGAN. 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 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 and created a period post-Second World War of unprecedented growth and opportunities?

I guess it is fine to talk about what has been going on the last 40 years. I happen to think this is a pretty good place. I do not see people rushing to leave. If they go, I do not know where they would go. Would they go to Tegucigalpa because the mail service is better? Krakow, because they have better roads? Budapest, because they have a better telephone system? I do not think so.

The fact is we ought to talk about what is right in this country for a while. Some of the things that are right in this country are now to be taken apart by 1,950 pages of legislation on which there has been no hearings, which we received yesterday afternoon about 4 o'clock, and on which we now have 10 hours of debate left.

It is a fairly disappointing thing to watch here in the Senate 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—and that is what the proposal is—$270 billion less than is needed 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 trustees say are necessary to make it solvent.

Shorthand—reduce the cut on Medicare to about $89 billion. That is all you need to cut in Medicare to make it solvent, and get the money for that by eliminating the tax cut for the affluent Americans.

Very simple. It does not take 8 hours to figure out what you will do about this. We do not need people sitting around with fingernail files and clippers and just ruminating about the world.

We have 20 hours on this bill. We offered this amendment 8 hours ago. Do Members know what we are talking about now? We are talking about an amendment on Medicare fraud. This amendment ought to be accepted in a nanosecond. Want to talk about this forever? God bless you, come and get time next week and talk to the whole world for 40 hours until you are blue.

This amendment is fine. It is not controversial. Why are they talking about it? Why are they eating up time on this clock? Because they do not want to talk about our amendment. They certainly do not want to vote on our amendment. And it is not just this amendment. There are others exactly like it.

We have family farmers out there who know that the farm bill is in this piece of—reconciliation, this reconciliation bill. This budget bill has the farm bill in it.

We are supposed to write a farm bill this year. We did not. So what do they do, they put whatever they have written in this. There are no hearings, nobody knows what is there, really. I mean, it is a real a slap in the face for family farmers. This will cut farm income in North Dakota by 25 percent. The first time in history they throw a farm bill in a reconciliation bill —first time.

What else is here? Oh, a note to families in middle-income circumstances that we want to make it tougher for you to send your kids to college because we cannot afford student financial aid. So we tell the old folks we cannot afford Medicare. We can afford a tax cut for the wealthy; cannot afford Medicare. We cannot afford student aid for middle-income families whose kids are about to go off to college, but we can afford a tax cut for the affluent. We cannot afford Head Start for 55,000 kids in the appropriations bill, but we can afford a tax cut for the most affluent people in the country.

And people over there say, "You are being too sharp in your criticism. Class warfare." You bet it is class warfare. It is all here, 1,950 pages of class warfare, in this bill. And do not take it from me, take it from your colleague, Senator SPECTER, who said it on the floor yesterday. It took a little courage for him to say it, and I admire him for saying it.

> . . . the pain of the spending cuts goes to the elderly, the young, and the infirm while allowing tax cuts for corporate America and those in higher brackets.

You know what he said yesterday, and in your secret moments you know what he said was right. He said that if it were a secret ballot, 20 of you on the other side of the aisle would vote against this because you know it is the wrong priorities.

We have spent 8 hours and have not had a vote. We have several more people who want to speak to the amendment on Medicaid fraud. I compliment the Senator for offering it. I support it and think we ought to accept it in 4 minutes. But instead, we will take 2 hours on this, I suppose, because the other side does not want to vote on an issue that deals with hundreds of billions of dollars of Medicare for the elderly juxtaposed against tax cuts for some of the most affluent Americans.

I know there has been a lot of nonsense on this floor these days, but I just want one person to bring a chart to the floor that tells me this statistic is wrong: on average, the 51 percent of American families with incomes under $30,000 get a tax hike in these 2,000 pages. That is a fact. It comes from the Joint Tax Committee. We do not run that. Half of the American families, on average, get a tax hike. Guess which half—the top half? Oh, no. The bottom half, the very folks the people who are pushing this say they want to help. It is a curious way to help people, in my judgment, with a tax hike.

Who gets the benefit? For everybody that finds a loaf someplace, somebody else is getting it buttered. So who gets their bread buttered here? The top 1

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 chart 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 half gainers and all the gyrations you 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 for it and get less. Family 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 proposition. I do not have to read it 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. But 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 things that literally 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 while, and I commend them. I have worked on it. But I tell you, our constituents would much sooner understand 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.

Mr. President, at the outset, I want to make it clear that I am one Senator who believes that 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 succeed in meeting the 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 benefits us all. The right kind 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 no 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 "Lifting All Boats—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 it has not translated into higher compensation for workers;
>
> * * * public dissaving has been reduced by 2 percent of GDP since 1992 through cuts in the Federal deficit, [yet] the net national savings rate continues to fall * * * primarily due to the downward trend in household saving, 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 product quality and delivery, lower wages, corporate restructuring, 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—to 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 that the other goals 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 want to deal with the deficit problem, the reason the right kinds of changes are so 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 work force worry about whether there are enough good jobs out there for them to find. And most 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 lower paying 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 tax, spending, and regulatory policies do not undermine the opportunity for Americans to find a good job, to keep a good job, to be able to provide for their families, and to help their children get ready to succeed in an ever more competitive world economy. We have a responsibility to adopt policies that encourage, rather than discourage, the creation of the new good jobs we so greatly need, and the kind of solid, sustainable economic growth on which our individual and collective futures so fundamentally depend. We have a duty to ensure that Government policies help, rather than hinder, Americans who want

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 on the way it may have 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 situation has changed dramatically since the Federal Government last balanced its budget in 1969. In 1969, the national debt was $365 billion; now it is almost $4.9 trillion. In 1969, interest on the national debt cost only $12.7 billion; this year, interest alone will consume over $230 billion—over $40 billion more than total Federal spending in 1969. And the future holds even greater problems. Last year, I served on the Bipartisan Commission on Entitlement and Tax Reform. Finding No. 1 of the Commission's interim report to the President made it abundantly clear what will happen 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, by the year 2012, entitlement spending and interest expense consume every single dollar of Federal Revenue. If we do nothing, by 2030, Federal outlays could consume 37 percent of the entire U.S. economy, up from 22 percent today. 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 get 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 tax cuts?

The reason greater fiscal discipline is important is that we owe more to our children than a legacy of debt. How is that consistent with giving ourselves a tax cut now, thereby creating more debt for them to repay?

The tax changes now contained in this bill are very substantial in comparison to the deficits we face. They amount to 15 percent of the $1.6 trillion in deficits forecast for the next 7 years if we do not act to put our 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 (GDP) in 1994. That is 1 percentage point 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 sounds like a number large enough to provide a substantial opportunity for those kinds of changes to happen. When compared to Federal revenues that will total more than $11.3 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 also contains provisions designed to save $10.8 billion over that same 7-year period by making student loans more expensive. On a net basis, therefore, families with students 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.

And even middle income Americans 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 long-term care insurance, and a number of other changes. The benefit to American taxpayers of these changes amounts to approximately $12 billion. However, the bill also makes changes in Medicare and Medicaid that will take $452 billion out of those two programs over the next 7 years. The changes include doubling the Medicare part B premium, and the Medicare part B deductible. For most Medicare and virtually all Medicaid recipients, the tax relief they will receive under this bill, therefore, will probably not come close to covering their increased health care costs. And if, as many believe, one result of these Medicare and Medicaid changes is to put additional upward pressure on health insurance costs, than it is not just the elderly, the disabled, and the poor who will see their tax relief overwhelmed by increased health care costs, millions of other Americans who are not currently using these two health care programs will also face that same reality.

Cutting taxes is the oldest political trump card, and it has not lost its power. And tax cuts are easy to understand. The temptation to promise the proverbial "chicken in every pot," is too great for some to resist. But imposing new costs on American families while only partly offsetting these new costs with tax cuts does not represent real tax relief; instead, it is, at best, no more than a cynical shell game.

And the proposed tax cuts are far from the only problems with this bill. The bill makes student loans more expensive, adding an 85 basis point fee to the cost of every loan, most, if not all, of which will be passed on to students. It adds 100 basis points, or one full percentage point, to the cost of what are called PLUS loans, which could add up to $5,000 in student loan costs for American families who use that student loan program. It ends the interest free, 6-month grace period which is designed to provide an opportunity for students to find a job after they complete their education, which adds another $700 to $2,500 in costs to student loans. And it actually increases, rather than decreases, the redtape and administrative costs associated with student

loans, by backing away from direct loans in favor of using the banks to make student loans guaranteed by the Federal Government.

The net effect of all of these cuts is to price college out of reach for more Americans. A study by two higher education economists—Michael McPherson of Williams College 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. We want a brighter future for our children, but if we are simply moving costs 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 essential investments in education.

We all know that education is the one of the most important determinants of the amount our children will earn in their lifetimes. In this increasingly technological age, education is ever 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 legacy we are 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 provision 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 from their current double digit increases to a bit more than 4 percent annually. They also argue that action is required in order to keep the Medicare trust fund solvent.

If the only important thing is the narrow budget numbers 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 whole story, but only the beginning of the story. There are two factors driving up the cost of Medicare and Medicaid, and health care 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 the increasing number of Americans 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 the quality of care and the health 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 literally 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 residents who depend on 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. Medicare 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 more 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 likely see higher health insurance costs, as hospitals push costs formerly paid by Medicare and Medicaid over to privately insured patients. Lewin-VHI, an independent research firm, found that the $452 billion in Medicare and Medicaid changes will 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 Medicare and Medicaid 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 deserve real reform—we 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 system reform when 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 and my dismay on how it treats the poorest Americans. The proponents of this bill say it reforms welfare, that it "reforms" the EITC, that it "reforms" health care for the poor, that it "reforms" nutrition 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 welfare recipients 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 been declining for 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 poor 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 poorest 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—or 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.

How 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 onto every American family help them better meet their own long-term objectives. Finally, how is walking away from the poor—and particularly poor children—consistent with either our own long-term interests or our own core values.

The answers are, of course, obvious. It cannot, it does not, and it is not. It does not meet the long-term needs of American families. It does not prepare our Nation or our children to meet the challenges the future holds. It does not include the kinds of reforms we need. All this bill offers is diminished opportunities, a loss of competitiveness, and a continuation of the current anxieties that so plague the American people. When it inevitably fails, its only lasting result will be to further increase the already pervasive cynicism that so poisons our public dialog.

We can and must do better. We have an obligation to our country, to American families, to our children, and to their children to enact the kind of reforms that will help make our individual and collective futures brighter. However, the only way for this Senate to do the right thing is to first defeat the wrong one. I therefore urge my colleagues to join me in opposing S. 1357, the Balanced Budget Reconciliation Act.

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

Mr. CHAFEE. Mr. President, I wonder if the distinguished Senator from Illinois would answer a question.

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

Mr. CHAFEE. Maybe I could have 5 minutes off the bill, if I might.

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

Mr. CHAFEE. Mr. President, the distinguished Senator from Illinois is a member of the Finance Committee. So she is familiar with some of these items, obviously. But I heard her say that under the Republican measure the Medicare part B premiums are going to double. What is her source of information for that? What is she basing that on?

Ms. MOSELEY-BRAUN. I am going to have to find the record. But I would be delighted to get back to my colleague with regard to the effect as to some of the recipients of Medicare. The premium will double, and those are the numbers provided for us in committee. I would be delighted to get the base information. I do not have it.

Mr. CHAFEE. I wonder if the Senator from Illinois is objecting to the affluent testing of the part B premiums.

Ms. MOSELEY-BRAUN. Objecting to the affluent testing? No. I would say to my colleague 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 that, therefore, the notion that we are just restraining, restoring, and saving the program becomes illusory given the overall impact of the changes that 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 treated the part B premiums will be to 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 pays 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 31.5 percent.

Now, if the predictions 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 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 that exists now. And if the distinguished Senator from Illinois objects to the affluence testing, then she is on a different course than I am and I think most of the American public.

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 affluence testing that the Senator mentioned.

will pay 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. SANTORUM). The Senator from Rhode Island controls the time.

Mr. CHAFEE. It is my time, Mr. President. I believe I am on my time.

The PRESIDING OFFICER. The Senator from Rhode Island controls the time.

Mr. CHAFEE. All right. Now, I would just say this, that those premiums she is discussing would go up no matter which administration and under whose program you are talking about.

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 we do 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 yields back his time.

Who yields time on the amendment?

Ms. MOSELEY-BRAUN addressed the Chair.

Mr. ABRAHAM. Mr. President, I believe the previous agreement——

Ms. MOSELEY-BRAUN. Mr. President, I have not yet yielded the floor.

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

The Senator from Rhode Island claimed time under the Republican side on the bill and was recognized for 5 minutes. He has yielded back his time.

Who yields time?

Mr. ABRAHAM. Mr. President, just as 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.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Ms. MOSELEY-BRAUN. Will the Senator from New Mexico allow me, because I think we got into a parliamentary pickle here for a second, and I just want 30 seconds.

Mr. BINGAMAN. I would be glad to yield 30 seconds to the Senator from Illinois.

Ms. 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. It 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 once this 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 anyone 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 2.2. In the case of people with 30,000, it 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 50 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 substantial number of 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. We own very 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 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 true. Clearly, a family has to have substantial enough 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 $1,148.00. 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.

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.

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

The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time I would like to yield 10 minutes of our remaining time to the Senator from Maine, but before I do I just want to recognize and commend the efforts of the Senator from Maine.

It was Senator COHEN who last year served as the ranking minority member of the Senate Special Committee on Aging, and it was his staff that produced the document which I have read from several times tonight pertaining to investigations of the kinds of Medicare fraud and abuse which the amendment I have brought this evening tries to address. It was his fraud and abuse legislation, in fact, introduced earlier this year, which served as the basis for the antifraud and abuse provisions contained in the legislation before us. His earlier legislation had bipartisan support.

Provisions in the pending legislation are tough. They are comprehensive and they are unprecedented in their effectiveness. I believe that this is the first time health care fraud and abuse provisions have been scored by the Congressional Budget Office as generating savings.

In fact, according to CBO, these provisions yield over $4 billion in savings. So, I want to commend the Senator from Maine for these efforts. They are productive ones. And I applaud what he has done. And at this time I turn the floor over to him.

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. COHEN. I thank my colleague and friend from Michigan. I want to join in support of the amendment that he has offered to make what I believe to be very strong antifraud measures even stronger.

Mr. President, I have listened at length to the debate today, and I think the American people are wondering, why are we here at this point in time debating this issue in the fashion that we are debating it?

We are here because there has been a lot of politics involved in the entire debate. Ever since the release of the trustees' report on the Medicare trust fund last spring, Republicans have said, "We have to do something." I recall that Senator DOLE, the majority leader, last spring urged that President

Clinton try to put together some kind of a bipartisan commission or committee or 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 there is not a problem. "There is no problem with Medicare, and you Republicans are simply trying to blow it out of proportion." Well, there is a problem. There is a problem that has to be fixed.

Let me 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 home that needs 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, you have several 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 home. 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 to simply increase taxes. If you want the analogy to be made properly, we just have more taxes to keep the system going at a rate of 10 percent growth. That is what we have to do, increase the taxes.

I have not heard one single person on the other side call for a 44-percent increase in taxes, in the payroll tax of 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 energy 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.

That, basically, is what the Republicans have tried to do in terms of slowing down the growth of the Medicare fund as such to make it more efficient, to stop growing at a rate of 10 percent to 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 potential 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 subject matter which I think has been addressed earlier but is of great importance 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 committee is that we are suddenly waiving many of the standards and regulations that have been hard fought in the field of nursing home care.

One of the first bills that I introduced back in 1973, in December 1973, was the Nursing Home Patients' Bill of Rights. That came in the wake of a number of congressional investigations 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 Executive 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, for 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 correct it.

But tomorrow we are holding a hearing in the Aging Committee in which we will again discuss the reasons why we need a continuation of the Federal standards and oversight and enforcement of nursing homes.

Let me give you just a couple examples. By the way, this is not a new issue.

I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material 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 unfinished agenda—an information paper.

May 21, 1986: Nursing home agenda: The unfinished agenda, vol. 1.

Feb. 26, 1985: Sustaining quality health care under cost containment.

July 1985: America's elderly at risk.

July 9, 1985: Health care cost containment: Are America's aged protected?

Sept. 10, 1985: The long term care ombudsman program: A decade of service to the institutionalized elderly.

Sept. 18, 1985: The rights of America's institutionalized aged: Lost in confinement.

October 1985: Dying with dignity: Difficult times, difficult choices.

October 1, 1984: Discrimination against the poor and disabled in nursing homes.

November 1983: Staff data and materials related to Medicaid and long term care.

February 2, 1982: Medicare coverage and reimbursement of skilled nursing facility services.

March 22, 1982: Long term care for the elderly in Florida.

March 27, 1982: Medicaid fraud: A case history in the failure of state enforcement.

July 15, 1982: Nursing home survey and certification assuring quality and care.

July 16, 1982: Nursing home inspections: New Jersey.

December 9, 1981: Oversight of HHS inspector general's effort to combat fraud, waste, and abuse.

May 15, 1980: Medicare and Medicaid fraud.

October 17, 1979: Special problems in long-term care.

July 25, 1978: Medicaid anti-fraud programs: The role of state fraud control units.

August 11, 1978: Medicare-Medicaid administrative and reimbursement reform act.

March 1977: Fraud and abuse in nursing homes: Pharmaceutical kickback arrangements.

June 8, 1977: The national crisis in adult care homes.

June 17, 22, 23, 30 and July 1, 1977: Civil rights of institutionalized people.

June 30, 1977: Kickbacks among Medicaid providers.

March 1976: Nursing home care in the United States: Failure in public policy.

June 3, 1976: The tragedy of nursing home fires: The need for a national commitment for safety.

August 1976: Fraud and abuse among practitioners participating in the Medicaid program.

September 1976: The tragedy of multiple death nursing home fires. The need for a national commitment to safety.

January 1975: Nursing home care in the United States: Failure in public policy.

February 1975: Nursing home care in the United States: Failure in public policy.

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September 1975: Nursing home care in the United States: Failure in public policy.

September 26, 1975: Medicare and Medicaid fraud.

November 11, 1975: Society's responsibilities to the elderly.

November 13, 1975: Medicare and Medicaid fraud.

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February 11, 1965: Conditions and problems in the nation's nursing homes, part-1.

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February 17, 1965: Conditions and problems in the nation's nursing homes, part-3.

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May 5, 1964: Nursing homes and related long term care services, part-1.

May 7, 1964: Nursing homes and related long term care services, part-3.

For a listing of Congressional hearings and reports related to nursing home care since 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 eliminate burdensome federal regulations, 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. They are likely to find this is one area where uniform federal standards make sense.

At issue is the Nursing Home Reform Act of 1987, the final phase of which took effect just this past July. As part of the move to turn Medicaid into block grants for the states, Congress is trying to repeal the law and drastically reduce funding of the nursing home enforcement system.

The 1987 law—which requires nursing homes that receive Medicaid dollars to follow good nursing practices and protect residents' rights—was the result of years of study, public hearings and documentation of abuses, such as the use of unnecessary physical restraints and excessive reliance on drugs for behavior control.

The standards have been gradually phased into effect over the past eight years. As of July 1, 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.

For example: During the entire 11-year period from 1984 to 1995, Indiana assessed only 33 fines against nursing homes for violating regulations. In the three months since July 1, 28 state fines have been levied, three homes barred from accepting new residents pending resolution of problems and four homes scrutinized by state monitors inside their facilities. In addition, the federal government denied Medicaid to 12 homes and issued 48 civil financial penalties.

If the proposed legislation passes, it is highly unlikely states will replicate the federal law. In fact, they will be under intense pressure from the nursing home industry to deregulate facilities to compensate for Medicaid reimbursement cuts. Beds for those who depend on Medicaid will become sparse since long waiting lists are already common.

Scott Severns, an Indianapolis attorney and president the National Citizens' Coalition for Nursing Home Reform, believes federal rules may actually save taxpayers' money spent on the elderly. As a result of the '87 law, he notes, hospitalizations of nursing home residents have dropped 25 percent, which means less spent through Medicare.

"Nursing home residents who are hospitalized for broken bones, bedsores and infections from neglect cost far more than residents who receive proper care," he says.

If Congress wants a compelling reason to preserve the federal protection, it need look no further than Ritter Health Care Center in Indianapolis.

Last month, state inspectors found Ritter residents tied with gauze to rails and beds and smeared with food and body wastes. Some were confined to rooms by greased door handles because too few staff were available to supervise. One resident on a liquid diet choked on a piece of food.

Ritter had been cited for numerous violations since 1993, but never really punished. Thanks to the new federal tools, the health department moved swiftly this time. The owners have been fined and denied Medicaid eligibility. Tragically, residents must now move elsewhere because of the facility's failure to correct its problems.

That is how the federal law was designed to work. That is how it is working in Indiana. At this point, it would be a mistake to repeal what isn't broken.

[From USA Today, Sept. 27, 1995]

DROPPING FEDERAL RECS IS AN INVITATION TO TRAGEDY

Eight years ago, after 15 years of argument, Republicans and Democrats in Congress got together to correct a public embarrassment. They passed a law to stop nursing home operators from abusing or neglecting the elderly.

They had ample incentive. Reports of residents lying in excrement, dehydrated, malnourished or overmedicated were commonplace. State regulation was a failure. Public outrage was high.

It should be just as high now. The regulations created by that law are about to be weakened or stripped away—victims of a ideological crusade to curb federal authority, good or bad.

Control would return to the state, despite their history of failure.

Those pushing the new plan, House and Senate Republicans, claim their legislation is not a repeal. They say the law is ineffective. And they say it's hugely expensive.

All three claims are fiction.

Not a repeal? Under existing regulations violators are subject to financial penalties, decertification, denial of payments or takeover by temporary managers if they violate health and safety standards. Proposed changes would weaken enforcement by states that are vulnerable to powerful lobby groups. The Senate wouldn't require inspections, nurse staffing or protections against restraints or medication.

Not effective? A government study of 269 homes in 10 states cited impressive results. The study found hospitalization of nursing home residents down 25%, use of restraints down 25%, and detection and punishment of abuses increasing.

Too expensive? Quite the contrary. A study of 9,000 Georgia nursing-home residents reports a monthly $76,738 savings by curtailing unnecessary drug therapy, thanks to the regulations. And that's not an isolated case. The National Citizens Coalition for Nursing Home Reform, a resident advocacy group, says the changes saved billions in costs attributed to poor treatment.

Even the American Health Care Association, representing nursing home owners, says costs have not been a problem.

In fact, nursing home owners signed onto the legislation when it passed in 1987. So did consumer groups. So did state officials. So did the Institute of Medicine, research arm of the National Academy of Sciences, whose 1986 report on nursing home conditions led to the reform.

No credible evidence exists to justify reversing course. If changes are necessary they should be based on the same kind of thorough study and public hearings that produced the original regulations.

Seniors are in nursing homes because of advanced age, mental or physical disabilities, to recover from hospitalization or because they have no one to care for them. They are frail and vulnerable. They deserve all the protection the public can provide.

[From the New York Times, Oct. 18, 1995]

KEEP NURSING HOME STANDARDS

In its ongoing effort to give more power to the states, Congress wants to scrap Federal standards for quality of care in nursing homes. Given past abuses that the standards were designed to guard against, and the future need for even more nursing homes, this is an invitation to trouble. There may well be room to revise the Federal standards to make them simpler and less costly. But with vast changes occurring in the health-care system, the need for Federal standards to insure minimal quality is greater than ever.

It was only about 20 years ago that a series of media exposés, state government reports and legislative hearings revealed widespread abuses 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 set national standards for staff training, individual assessments of patients and protection of basic patient rights, including the right not to be physically restrained, the right to voice grievances and the right to be notified before transfer or discharge.

The law has begun to make a difference. In the mid-1980's, about 40 percent of nursing home patients were physically restrained; now, less than 20 percent are. Improved care has also led to savings on medications and unnecessary hospitalizations.

Now Congress is trying to reshape the health-care system by sharply cutting Medicaid, which provides about 60 percent of nursing home funding, and shifting the money to state control through block grants. Congress wants to cut $182 billion out of Medicaid over seven years, which would likely lead to reduced reimbursement rates for nursing home services and facilities.

Many states are insisting that, if they are to assume control of a reduced pot of money, they must have the power to set their own nursing home standards to eliminate needless costs. House and Senate committees have separately passed bills that would give states primary responsibility for setting quality-of-care standards for nursing homes, with Washington offering only general categories to be covered. Nursing home providers could lean on states to cut back on standards that they will not be able to live up to for lack of funds.

Nearly two million people now reside in nursing homes. But with an estimated 43 percent of people over 65 years of age likely to spend some time in a nursing home, and an aging baby-boomer population, the demand for these facilities will only grow. To abandon national standards now may invite a return to the nursing home disasters of the past.

Mr. COHEN. We have had over 50—at least 50—congressional hearings and reports over the years dealing with nursing homes, going back all the way to 1965. This only starts in 1986. We have had many more since that time.

But let me just cite you some examples of what is taking place, even as I speak.

Recently in Maryland, a resident expired due to strangulation from an opposing restraint because the resident was not properly wearing a restraint.

In Ohio, we had a resident who died due to strangulation from a vest-type restraint that was incorrectly applied.

In Florida, we had a resident who was sexually assaulted by a nurse's aid.

In Indiana, 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 Louisiana, we had a resident who was left unattended in a geriwalker and fell. She hit her head and required hospitalization.

In Texas, a resident was force fed with a syringe and aspirated and was hospitalized.

In Maine, we had 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. It 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 have to make 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 ought to be standards that have been set. 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 residents 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 it should be done, if not 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 about this issue 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 he was looking forward to working with you on it, and I am a cosponsor of that amendment.

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 had one in the recent past, 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 committee. 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.

Let me 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 gouged. Some 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 we are 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 if, in fact, the senior finds that they are going to share, by way of a portion of the recovery that is made, it will be an incentive to them.

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 substantive law of the land.

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, then there would be an opportunity for

an amendment. I was going to offer a second-degree amendment. I wonder why that is not appropriate to do at this time.

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 was, and we 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 I understand it, 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 8 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 30 minutes of his allotted 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 would be laid aside and then there would be a motion to recommit Medicaid, and there will be no 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 an amendment or 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- and first-degree amendments and have 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 State 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 urge all Democratic Senators to 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, we can offer 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 or motions to 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, and we are very pleased 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, you ought to vote on it and then we lose—maybe 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 would 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, we have shared the first and the second tier with the leader. I am wondering if you might have the list of Republican amendments that you are planning to offer so that we might have the evening to take a look at them. If that could be accommodated, that would be helpful.

Mr. DOLE. The majority whip is working on a list and when it is available, we can do that. I think the majority whip is working on that list as I speak.

Is there any objection?

The PRESIDING OFFICER. It has been agreed to.

Mr. DOLE. That will be the last vote today. There will be no more votes today or during the evening.

AMENDMENT NO. 2957 TO AMENDMENT NO. 2950

(Purpose: To strengthen efforts to combat Medicare waste, fraud, and abuse)

Mr. HARKIN. 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 Iowa [Mr. HARKIN] proposes an amendment numbered 2957 to amendment No. 2950.

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

Mr. HARKIN. Mr. President, this amendment is an amendment to the amendment offered by the Senator from Michigan, Senator ABRAHAM, 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 a bad amendment—it just 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 that capacity, at least once a year, I had 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.

Mr. President, these 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. If 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.

While we may not 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 $3,600 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 started when 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, those entities, those 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 one 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 examples were 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, requires competitive bid. That, I believe—we can do anything we want 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 figure $170 billion 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 fixing up the Medicare system just by clamping down on waste, fraud, and abuse.

I realize we cannot get all of that but if we could just get half of it, 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, our amendment, as 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 $600 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 the law which result in criminal convictions for health care fraud.

Our amendment also provides for uniform application process for health care providers seeking to participate in Medicare and Medicaid. Right now, there is just too much paperwork. Our amendment says one standardized form for the submission of claims under 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 ought to be for this amendment. We ought to, for once and for all, require 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 briefly comment 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 timeframe 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 DORGAN and my colleague, Senator BINGAMAN—took to the floor and talked about the distribution of the tax cuts. And Senator DORGAN said nobody has disavowed and disproved 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 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 Tax Committee 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, because 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 them: Check about the EITC. So we make sure we got that. With the EITC tax changes, this confirmation letter says the following. In 1996, the tax distribution is as follows: "Under $75,000, 75 percent. 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 wage earners under $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 has decided not to do 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 disproved it, disavowed 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, DC, October 24, 1995.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: I am writing in response to your letter of October 23, 1995, in which you asked me to address several questions with respect to the revenue recommendations approved by the Senate Finance Committee on Thursday, October 19, 1995, and previously approved reforms 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 revenue recommendations. Our analysis of this set of proposals indicates:

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

Calendar year	Percent	
	Under $75,000	Under $100,000
1996	77	90
2000	68	83

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):

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

Calendar year	Percent	
	Under $75,000	Under $100,000
1996	72	88
2000	61	79

At 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:

PERCENTAGE OF TAX REDUCTION TO INCOME CLASSES

Calendar year	Percent	
	Under $75,000	Under $100,000
1996	75	89
2000	65	81

With respect to the Senate Finance Committee's previously approved EIC reforms, our analysis of the combined effects of the Senate Finance Committee's EIC reforms, the $500 child credit and marriage penalty relief for 1996 indicates that less than 1.5 percent of all households will have in income tax increase as a result of the EIC reforms. Other key points to consider include: 3.6 million households without children would no longer receive an EIC beginning in 1996. This reform reinstates 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 700,000 households would owe income taxes because of the Senate Finance Committee's EIC anti-fraud and illegal alien provisions and the affluence reforms that 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 $20 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.

If you have any questions about this information, please do not hesitate to contact me.

Sincerely,

KENNETH J. KIES,
Chief of Staff.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself as much time as I may need just to make a couple of comments on the second-degree amendment to the first-degree amendment, and then I will yield the balance of time on that point.

The Senator from Iowa commented that the first-degree amendment was a good amendment, but not nearly adequate to deal with the issues of fraud and abuse in the Medicare system. I do not disagree with that point. It was not intended to be the comprehensive solution to fraud and abuse problems with Medicare.

Indeed, we do not need that in my amendment because the reconciliation bill includes a whole variety of projects and sections which try to address these problems.

First, the Senate Republican proposal directs the Secretary of HHS, through the inspector general, and the Attorney General to establish a joint program to coordinate Federal, State, and local law enforcement efforts to combat health care fraud and abuse.

Second, our bill creates a new health care antifraud and abuse account to cover the cost of this coordinated health care antifraud and abuse program between the inspector general at HHS, the FBI, State fraud control units, and Department of Justice prosecutors. All moneys collected in the form of penalties, fines, forfeitures, and damages from health care fraud cases will be turned back over to the Medicare hospital insurance trust fund.

Third, the bill establishes new health care antifraud and abuse guidelines relating to safe harbors, interpretative rulings, and special fraud alerts. For instance, under this provision, any person may request the HHS inspector general investigate and issue a special fraud alert informing the public about suspected fraudulent activities against Medicare or Medicaid.

Fourth, the bill strengthens current sanctions by requiring the Secretary of HHS to exclude from receiving Medicare or Medicaid payment individuals and entities against whom there have been convictions for fraudulent activities.

Fifth, we create intermediate sanctions for the Secretary of HHS to use against Medicare HMO's which fail to live up to contractual responsibilities. Civil monetary penalties range from $10,000 to $100,000.

Sixth, our bill establishes a national health care fraud and abuse data collection program and requires the information collected be made available to Federal and State government agencies and health care plans.

Seventh, this proposal increases the amount of civil monetary penalties for current law, adds new offenses to those subject to civil monetary penalties, and requires that all civil monetary penalties be used to reimburse 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 section 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 investigation and prosecution 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 combination 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 worked hard 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 struck me the one missing ingredient, important missing ingredient was to provide an incentive whereby the Medicare beneficiaries themselves could help us to 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. Will the Senator yield just to engage in a 2-minute colloquy?

Mr. ABRAHAM. I committed time at this point to other Members. Maybe they would be able to yield at this point, but I have to, at this point, yield my time to the Senator from New Hampshire.

Might I make an inquiry as to how much time we have left?

The PRESIDING OFFICER. The Senator has 22½ minutes.

Mr. HARKIN. I just wanted to ask one very small thing.

Mr. ABRAHAM. Sure.

Mr. HARKIN. The Senator was very thoughtful. As I said, I do not really have much argument with what is in the bill. I am not trying to undo what is in it, nor the Senator's amendment. But I still think the heart and soul of this is competitive bidding. I hope the Senator will think about that. Maybe we might reach some agreement on this. But I think the time is long past when we should put out competitive bidding just like they do in the Veterans Administration. I hope your side might take a look at that.

I thank the Senator.

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 relative to 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 in the context of this amendment that has been brought forward by the Senator from Michigan, which is an excellent amendment, and the amendment which has been brought forward by the Senator from Iowa, because the Senator from Iowa keeps referring 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 the other side of the aisle, then they 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 give 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 PPO's, and doctors practicing together with hospitals in what is known as HMO's, and groups of doctors and hospitals practicing together in all different kinds of imagination for which we do not have names and titles for, euphemisms, initials, and titles for: medical savings accounts, and your present fee-for-service proposal which you can participate in. We will not limit your ability to participate in that. But we will open the marketplace to competitive bidding for your dollars that you are spending on Medicare today and on your health care.

That is the essence of our proposal. It is to bring the marketplace into the Medicare system, something that has been ignored over the last 20 years as we have seen Medicare evolve.

The impact of doing that is essentially what the Senator from Iowa has mentioned. He thinks the impact of bringing competitive bidding into a narrow band of purchasing activities on Medicare, the impact of bringing competitive bidding to the entire concept of health care and the marketplace into the Medicare system, is to control the rate of growth of costs of the Medicare system. Why are we doing this? We are doing it because if we do not control the rate of growth for the Medicare system we have been told by

the Medicare trustees that the Medicare system will go bankrupt. Unfortunately, earlier today we heard about the fact that statements were made on the other side of the aisle from some of the Members that we, in controlling the rate of growth of the Medicare system, are undermining the Medicare system; the fact 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 that side of the aisle as somehow irresponsible.

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 allows the trust fund to remain solvent, we are being irresponsible?

The irresponsibility lies with those who continue to allow the costs to escalate uncontrolled at a 10-percent rate of growth and, 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 seniors more choices we will end up being able to control the rate of growth in health care costs? It is what has happened in the private sector. The private sector, over the last 5 years especially, has seen a major move of employee insured groups going from fee for service into some sort of coordinated care delivery, some sort of fixed cost insurance program. The experience has generated some fairly clear guideposts for us in the public sector as we attempt to give our seniors who are getting Medicare today the same type of options that those of us in the Senate have, and that many people in the private sector have, which is the opportunity to choose different types of health care delivery services.

This chart that I have here reflects what has happened in the private sector as we have seen a movement of approximately 60 percent of the population from fee for service into different types of coordinated care, or care with a fixed cost paid up front. This red line is the rate of inflation in health care costs. The blue bars indicate the rate of enrollment in managed care types of plans. As you see with the managed care enrollment going up, the rate of health care costs, inflation, has gone down. In fact, it has dropped by about 50 percent. It has dropped so much that, for example, in the Federal employee plan, which is the plan that basically we are tracking at least in concept—not specific but in concept—with what we are going to offer senior citizens, last year the Federal employee plan had no health care inflation. This year it will have no health care inflation. Last year it actually had a drop in health care inflation. So there was actually a negative increase in premium costs.

That is why we believe that when we give seniors the option to participate in a marketplace, why when we bring the marketplace forward to compete for the seniors' dollars, we will see the type of efficiency which is inherent in a capitalist system, in a marketplace system, in the type of approach which the Senator from Iowa has said will work in a narrow band. It will work in a broad band also.

Therefore, under our plan we are essentially going to be able to address not just the narrow costs of how much a bandage costs but the broad costs, the overall health care delivery system cost for our senior citizens. That, of course, should be our goal. Why should it be our goal? Let us get back to why that should be our goal—controlling the rate of growth of health care costs. Because, if we do not control that rate of growth, once again it is important to emphasize the fact that the hospital trust fund goes broke. It goes bankrupt.

Once again, I want to point out that I keep hearing this number on the other side of the aisle that all we need is $89 billion to adjust the Hospital Health Care Trust Fund. That number is simply not accurate according to the trustees' report. The trustees' report was very definitive in stating that in order to get actuarial solvency of the hospital trust fund of the most minimal nature, the absolute bare minimum actuarial solvency, you need an adjustment that amounts to $387 billion over 7 years, not $89 billion.

So by using the method of creating competition for seniors, we expect to be able to control the rate of growth of costs. And we are really not controlling it all that much, quite honestly. We are talking about still allowing the rate of growth of Medicare to be 6.5 percent, essentially the same rate of growth of health care that the President wanted. As pointed out earlier by Senator NICKLES on this floor, the President's budget, as it was sent up, allowed for a rate of growth in Medicare which was essentially the same as our rate of growth in Medicare.

Why did the President send those numbers up? Because the President understands or at least his trustees understand that a rate of growth which we are presently suffering from—the 10-percent rate of growth—is unsustainable, and will lead to bankruptcy. You have to slow that rate of growth. But a 6.5-percent rate of growth is a huge—an absolutely huge—infusion of money into the Medicare system. That infusion of money—I will return to another chart which I had earlier—which represents $349 billion of new spending on Medicare over the next 7 years will be the type of dollars necessary to generate competition in the marketplace for our senior citizens as they go out in the marketplace and look for different types of health care to obtain.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 6 seconds remaining.

Mr. GREGG. I am running out of time. I probably will not have time to touch on it. But let me simply say in concluding on this point that the plan which we as Republicans have put forward is a plan which fundamentally strengthens the Medicare system.

It says to seniors that we are going to give you an opportunity to participate in similar programs that Members of Congress and Federal employees have, the opportunity to go out in the marketplace and look at different health 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 $5,000. To the extent that senior is able to go out and find a health care plan that has to supply the same basic benefits 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, which is another huge marketplace 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 quality care and, second, care which will be more cost-effective and therefore will be affordable and therefore will guarantee the solvency of the trust fund.

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

Mr. GREGG. I thank the Chair.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I join my colleagues tonight to debate this most important provision of the Senate reconciliation bill that is before us and the Republican proposal that I am so proud to support because of the kind of elements that we have put before the American public as truly positive change, while at the same time recognizing 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 that I think is critical for us to understand, of course, is 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 has introduced a competitive bid 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; that I think is a tremendously positive approach; that in combination 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 that out 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.

Let me give you a 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. And yet we believe 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-working, tax-paying 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 we certainly have not caught 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 this evening, along with the additional provision in the 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 almost instantly that within 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. I had not heard from this man in years. He had happened to be from my hometown. He is now retired and living in California, and he 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 but there were 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 this 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 working with my constituents, 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 in 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, that 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 the program, are going to be increasingly valuable, and this is what I am proud to say we have offered. It has been scored. It saves $4.1 billion over the period of this legislation, and that is of critical need to all of us.

Mr. President, may I inquire how many minutes are remaining in my time?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. CRAIG. 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; and that is, 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, most assuredly the way Congress 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. The Senator's time has expired.

Who yields time?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask unanimous consent to lay the pending amendment aside.

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

MOTION TO COMMIT

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 read as follows:

The Senator from New Jersey [Mr. BRADLEY] moves to commit the bill S. 1357 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 any day the Senate is not in session) with identical language, except that the Committee on Finance shall strike sections 7462, 7463, 7464, and 7465 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 corporate tax welfare provisions.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for one-half hour.

Mr. BRADLEY. Mr. President, I know that this debate is being held opposite the eighth inning of the World Series. And I will keep all Members in 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 has given 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.

Mr. President, 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 1993 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 progrowth. I think it is not profamily. I think to 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 Department of the Treasury, almost 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, that I think draws 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 $600,000 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 on estates of more than $600,000. Only 0.2 percent of those who die in a year pass on estates of more than $2 million.

Embodied in this bill that increases taxes on families working and 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 the 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. 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 $1.7 million tax cut.

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 minute.

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, there is a provision that says if 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, would be used for a tax cut.

But this tax cut costs $221 to $224 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 $54 billion more increase of the national debt.

So it seems to me that 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 that is not 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 capital 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 cost $7 million in the first 7 years, and $12 billion, a little less than $2 billion a year, and in the next 3 years costs $21 billion, which is another $7 billion a year.

So talking about the budget deficit, this is an explosion of the debt, an explosion of 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 skillful maneuvering 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 can be true and still not refute the 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 opponents' provision, only $1.6 billion 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 $1.6 billion in 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 show that shows a figure with a 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 progrowth, profamily 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 everything in this bill except the child credit, the adoption credit, the student loan 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 estates 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 demagoging during the past few days from the President, from congressional Democrats, and from the Treasury Department, 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 are today. Our tax relief package is 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 1993 was a mistake—the largest 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. This assertion 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 preserve the EIC for those who need it the most. The indisputable fact is that more than 98 percent of all U.S. households will either receive a tax cut or have no tax increase with the Senate Republican bill.

The earned income credit program started in 1975 in an environment focused on reforming welfare policies for families with dependent children. Senator Long was a driving force behind the establishment of the earned income credit program, and this program provided cash assistance to working low-income families with children. The Finance Committee report on the Tax Reduction Act of 1975 stated that the program should be of importance in inducing individuals with families receiving Federal assistance to support themselves. There is no doubt that since the inception of the earned income credit, its focus has been on hard-working, low-income families with children.

In 1993, the program strayed from its original intent of helping working families with children, when President Clinton expanded the program to include childless, able-bodied working adults. My colleagues across the aisle often point out that President Reagan supported the program. Yet, when President Reagan lauded the earned income credit, the program only covered working parents of children and cost about $2 billion in 1986.

Today, the program makes payments to childless adults, and its costs have skyrocketed to over $20 billion. The reforms of the earned income credit contained in the Republican Senate bill will return the program to its original goals, those lauded by Senator Long and President Reagan, of a welfare program focused on low-income working families with children.

My colleagues across the aisle should realize that this will help children. Under our bill, the earned income credit will be available only to individuals who are eligible to work in the United States. Illegal aliens will no longer benefit at the expense of hard-working taxpayers.

Make no mistake about it, Mr. President, EIC is a cash transfer program, a welfare program, administered through the Tax Code, rather than through a Federal agency like the Department of Labor. If Congress were to reduce the amounts paid to food stamps, no one would say that Congress is raising taxes. Changes to the EIC are the same as changes to the Food Stamp Program. We are not raising taxes on EIC recipients.

The Democrats are arguing that changes to the EIC will raise people's taxes. In response to these concerns, I have asked the Joint Committee on Taxation to perform a detailed analysis of the Senate proposal to reform the EIC. This information is now available, and I released it earlier today to the public.

Mr. President, the purpose of the changes in EIC is to focus the program on the working poor with children. We do make four policy changes. We eliminate any EIC payment for individuals with no children. As I indicated, this program was intended to help families with children, and that should continue to be the policy of this program. We also prevent illegal aliens from obtaining this benefit. We also provide that outside income should be considered in determining whether or not one is eligible for the EIC. Why is tax-free interest not considered in determining eligibility? Why is tax-free Social Security or pensions not considered in determining eligibility for the earned income credit? Fourth, we take steps to eliminate the fraud and abuse in this program. Unfortunately, this program has had deplorable rates of fraud and abuse, as high as 30 to 40 percent a year. Recently, there has been, hopefully, some improvement in that. But it is estimated that it could still be as high as 20 percent. People are outraged and shocked with the waste, fraud, and abuse in food stamps or AFDC, but they only amount to 5 to 6 percent. In this program—the EIC—it amounts to as high as 20 to 30 percent.

Now, some Democrats have claimed the EIC reform results in those in the lower-income brackets—51 percent or less—paying higher taxes. That is totally false, inaccurate, and misleading. As I mentioned, I recently wrote the Joint Committee on Taxation to answer a number of questions. I pointed out that on Thursday, October 19, 1995, an article appeared in the Wall Street Journal entitled "Tax Analysis Now

Shows GOP Package Would Mean Increase For Half the Payers."

Is there any validity to the assertion that the Senate Finance Committee revenue recommendations would result in a tax increase for one-half of all households?

In responding 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 answer, 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—let me repeat that, 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 families 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 will 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 combined effects of the Senate Finance Committee EIC reforms, the $500 child credit, and marriage penalty relief for 1996 indicate that less than 1.5 percent of all households will have 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 $2,156 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 $2,360; that would rise 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 PRESIDING OFFICER. 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 most people would call that a bigger 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 is now 36 percent.

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 family 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 that farm or that business to their children.

What we are seeking to do in our changes in the estate taxes is to make that possible, make it 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. KERRY. Mr. President, at the outset of the 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 majority party —sends 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 what 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, but we are going to increase the tax break for 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 program. That may not be a lot to the person who has a $5 million estate, but let me tell you something, for somebody who is working, working, working—which is what we all talk about here—to get off of welfare and make it, $370 is a lot of money. People count those nickels and dimes when they are in that position. It is whether or not they are riding on the T.

There was a front-page story in the New York Times, I think last Monday. It talked about the impact of the earned income tax credit on working people. Here was a woman in New York City who, because she got the tax credit for working, was able to cut back on her apartment rent. She went back and got rid of a $700 rent, went down to a $400 rent so she could add it to the money that she got from the earned income tax credit. Do you know what she did? She bought herself a 15-year-old car so she could drive outside of the area that is served by public transportation so she could get a better job that earned more money. And that is exactly what she did. She broke out of

poverty by making hard choices because she had the earned income tax credit.

Our friends are coming along here. They are giving people who earn $300,000 a very nice, fat break. And they are taking away from the people who earn $30,000 or less.

There is no way for them to cut it any other way. Is there some fraud in the program? Yes, there is some fraud in the program. Can we cure that without reducing the program for eligible people? Sure we could. But that is not what they are choosing to do. They are going to throw everybody in the pot of fraud.

I keep hearing about illegal immigrants. That is a nice hot button in America now. I do not know many people who think illegal immigrants ought to be getting a lot. But that has now entered into this debate. That is not what we are talking about here.

It just is beyond comprehension that in this country we are going to play such games with definitions and reality when everybody understands what the reduction means.

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

Mr. KERRY. Mr. President, I really hope we are going to have a better sense of fairness here than is being exhibited in this approach to people who are working and trying to break out of the cycle of poverty.

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

Mr. ROTH. Mr. President, if I might just yield myself 1 minute?

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. ROTH. The one question we asked of the Joint Tax Committee is:

Would families with children living below the poverty line continue to receive an EIC in excess of the family's Federal payroll taxes?

And the answer is that:

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, including both employee and employer shares.

So the answer is that EIC more than offsets the payroll and other taxes of the family.

I yield the floor.

Mr. BRADLEY. Will the Senator yield at that point for a question?

Mr. ROTH. Yes.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. The Senator said—would the Senator read again, once again, what was it the Joint Tax Committee said about the various taxes that were offset?

Mr. ROTH. The question was:

Would families with children living below the poverty line continue to receive an EIC in excess of the family's Federal payroll taxes?

And the answer is:

Families living at or near the poverty line, one-child families with earnings under $12,500 and two-child families with earnings under $15,000, would continue to receive an EIC in excess of the family's Federal payroll taxes, employee-employer shares.

Mr. BRADLEY. Mr. President, no one disputes what the Senator has just said. EIC is available for families under to $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 part of this. 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 when the family starts 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 pay income taxes of $1,665.

Under our proposal they are going to get a $1,000 tax cut. Under 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 offsetting 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?

Mr. NICKLES. I will not. I want to answer a couple of allegations that were made. When somebody said you did not refute it, I want to refute a couple of them.

Mr. KERRY. Will the Senator yield?

Mr. NICKLES. No.

The PRESIDING OFFICER. The Senator is advised that the request should be made through the Chair, when addressing another Member.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, a couple of statements were made that the Republicans do not know that the EIC is used to offset payroll costs. That is wrong. This program not only offsets income taxes and payroll taxes, in most cases it offsets them and gives a check back.

In looking at incomes of less than $15,000—my colleague from New Jersey is right—in most cases, income tax liability is zero. But this not only offsets income tax, but it also offsets the so-called FICA, or payroll taxes.

Does it offset what an individual pays? That is 7.65 percent of their payroll. Yes, but it also offsets what the employer pays. That is 15.3 percent.

So not only does it offset all payroll taxes, but it offsets it them by 233 percent.

This is a program that is writing out checks. This is a program, Mr. President, that will cost $23 billion this year, $3 billion of it offsetting taxes, and $20 billion were cash payments—Uncle Sam writing checks. This cash outlay program now exceeds the cost of Aid for Families with Dependent Children, a program that costs $18 billion. This program costs $20 billion.

Families making $25,000 pay income taxes. For families that are paying income taxes, we give a tax cut. If they have children, we give $500 per child. That is pretty easy to figure. You have two children. That is $1,000. If they have four, that is $2,000. So our tax cut is very family friendly and very positive.

I want to mention some of the reforms that we make on EITC because they are long overdue, and they are part of our overall budget plan. We do have a budget. We have a budget that is balanced. President Clinton's budget is not balanced. We had a vote on it, thanks to my colleague from Pennsylvania. His budget is not balanced. We use the Congressional Budget Office for estimating purposes. He said he was going to use the Congressional Budget Office, and they say at the end of 7 years his budget has a deficit of $210 billion. At the 7 years, our budget has a $13 billion surplus.

We will have a balanced budget. President Clinton does not have one, certainly not by using the Congressional Budget Office. My colleagues on the Democrat side do not have one. They disowned the President's budget. They do not have their own budget. It is nonexistent.

Mr. SANTORUM. Will the Senator from Oklahoma yield for a question

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 not 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——

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, actually 235 percent of FICA, and that includes employer and employee. 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 am. 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—$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. AFDC 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 $550. By 1990, it had increased to $953. 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 had a couple of jobs. I compliment her. They made her think that 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 individuals without children. This program was always formulated with the idea of helping individuals and families with children.

We are reforming the system. We are trying to target the 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 all time expired on our side on this amendment?

The PRESIDING OFFICER. The Senator is correct.

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 bewilders me. 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 credit is more valuable. That is not policy. That is mathematics.

Then the issue of—well, the chart that the Senator had with the growth of the EITC, it grows because we are giving them bigger tax cuts. That is why it grows. So you put that chart up, and you see the bars go 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. It is not some kind of conspiracy. 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 for 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 portion 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 something 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 $16,000, $17,000 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 bill clerk read 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 one child will increase from $2,094 in 1995 to $2,156 in 1996 and the maximum earned income credit for a family with two or more children will increase from $3,110 in 1995 to $3,208 in 1996.";

"And the effective date for section 7461, 'Earned income credit denied to individuals not authorized to be employed in the US', shall 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 BROWN 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 $3,110, to $3,208. That is an increase of about $100—$98. 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 error rates and 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 target. I 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 measured showed that about 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 does. 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 rife with fraud and needs to be reformed. It has not been yet. The IRS is trying to tighten down around the edges, 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 hundred of thousands of people who receive benefits that make a lot more than the income eligibility called for, people making a lot 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 in 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 more moderate growth. Give him an increase, $100, 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 recipient said, "You increased my 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 have that program grow 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 fiscal year 1995 are about $20 billion. It will be about $23 billion in the year 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 some people 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 courage to at least control 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. So we allow the benefit 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, under our proposal or 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 on families with two or more children was $500 in 1985. Today, 10 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 of entitlement, 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. The facts are, under our proposal, by the year 2002 you can have income up to $29,200 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—for families that have 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 for a 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 the tax reduction on 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 fact 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 Farmers Union or some of the wheat growers, because you have a situation where inflation has built up the value of some of these farms and ranches, estates, machine shops, whatever, to say they are worth something.

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 that 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 profamily, and 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 have a better deal. 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 and not have to sell it, not 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 father, instead of saying, "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 give that 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.

Now, we limit it really to the lower size family operations. We did not help the people that have the very largest 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 percent—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, most fraudulent program that we have in Government today.

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

The PRESIDING OFFICER. Who yields 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 when the Senate resumes consideration of the reconciliation bill tomorrow, that the Democrats have 5 hours remaining on the bill and the Republicans have 3 hours and 15 minutes remaining.

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

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 ruminate for a few minutes about the Work Opportunities Tax Credit, now called the WOTC, which is the substitute for the Targeted Jobs Tax Credit, which expired at the end of last year.

Mr. President, the TJTC had some problems, but let me tell you, it got the job done. It encouraged employers to put kids and young adults to work. Youth who probably would not have gotten their first job but for TJTC.

I have a letter, Mr. President, from a good friend of mine in Montana. W.E. Hainline operates 4 B'S Restaurants across Montana and several other Western states. They serve good food and employ a lot of young adults.

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.

Bill can tell you about these kids and how they went on to other jobs and to success in many fields. In fact, that is what TJTC was about, and what we want to achieve with WOTC—we want to move kids off of the streets, off of welfare and we want to keep them out of the criminal justice system.

Bill is concerned, as am I Mr. President, that the WOTC is currently contained in the Reconciliation Bill before us, will not do the job. Bill notes in his letter that WOTC:

As written, virtually eliminates most companies from participating in [WOTC] by ignoring the youth group (18 to 24 year olds) not located in an empowerment Zone.

Mr. President, I joined with Senator MOSELEY-BRAUN last week in an amendment that would have expanded WOTC to create two new categories of youths which employers could hire under WOTC: individuals 18 through 24 receiving or living with families on food stamps; individuals 18 through 24 who are non-custodial parents of a child residing in a family receiving AFDC or successor programs; and individuals 18 through 24 who are receiving Supplemental Security Income.

Senator MOSELEY-BRAUN and I are working with Joint Tax to find the money to include these youths in WOTC.

Mr. President, as always, Bill Hainline hits the nail on the head. I request that his letter to me be printed in the RECORD. Bill has the credentials. He has used the TJTC program. He knows what it takes to make it work. I would encourage my colleagues to read their letter and to heed what he has to say. Replacing TJTC with WOTC will accomplish little if employers, like Bill, do not utilize the WOTC program.

If that happens, kids are the big losers.

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

RESTAURANTS, INC.,
Missoula, MT, October 17, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC:

I understand that the Senate Finance Committee is proposing a new TJTC 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 to 24 year olds) not located in an empowerment zone, not to mention the increased retention period from 120 hours to 500 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 an eligible employee for 400 hours. After all, the objective of the program is to give people on government assistance, 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 under the remaining categories, and the expense of tracking those eligible for 500 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 either 200 or 250 hours.

The above changes to the program would allow all Montana employers to participate equally with large city employers and insure that all people, with employment barriers, have an equal opportunity to seek employment for any profession they choose.

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 to their lowest point 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 a 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 on proliferation, canceling visits 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 discord, it appears 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 had demanded certain concessions from the United States, such as written assurances that members of Taiwan's top leadership will never again be granted a visa to the United States or that the United States will refrain from criticism of China's human rights record in international fora. The administration rightly gave 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 that will outlast this period and carry forward a stronger relationship in the future. I commend the President for holding the summit yesterday and hope that this meeting will mark the beginning of a more solid and productive period of United States—China relations.

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.

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Senate

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

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

The assistant 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 1996.

The Senate resumed consideration of the bill.

Pending:

Rockefeller motion to commit the bill to the Committee on Finance with instructions.

Brown modified amendment No. 2949 (to instructions of motion to commit), instructions that the committee should consider the findings of the trustees of the Federal Insurance Trust Fund.

Abraham amendment No. 2950, to establish beneficiary incentive programs to collect information on fraud and abuse against the Medicare Program and to collect information on program efficiency.

Harkin amendment No. 2957 (to amendment No. 2950), to strengthen efforts to combat 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 increase the earned income tax credit for families.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Minnesota.

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 discussion and an important policy discussion. I must say, I think all of my colleagues are enormously impressed with Senator BRADLEY's mastery of the material.

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 college 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 disagreements.

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 Senator 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. President—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 insurance 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 children 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 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?

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

We make choices here. and these are the questions: Who decides? Who benefits? Who is asked to sacrifice?

In my State of Minnesota. I say to my colleague from New Jersey. we have an interesting situation where back in 1991 we decided that we would have a 15-percent EITC at the State level, tied to the Federal EITC. So working families in Minnesota get an added benefit.

The final point in my lecture: How did this decision get made? I would tell you that what we have going on here in the U.S. Senate is deficit reduction based on the path of least political resistance, deficit reduction in inverse relationship to economic justice. If you have the big bucks. if you have a $5 million estate, you get the tax breaks. If you are low or moderate income, your taxes are raised. or you cannot afford health care. or you cannot afford to send your kid to college.

Mr. President, it is clear that the big givers are getting their way. The heavy hitters are getting their way. All these large financial institutions and corporations are not asked to tighten their belts at all. Mr. President, what we have here is decisionmaking. democracy for the few. not democracy for the many.

This motion brings back some fairness and justice to this process.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the senior 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 cutting some of the tax breaks available to healthy 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, most 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 cuts. I have 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 moves people into jobs. A majority of those who have served in this and past Congresses have support 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. And if we did that, this Congress would be praised for its responsibility, its leadership, and its service.

Furthermore, producing a bipartisan budget plan—without partisan bickering, without vetoes, without shutting the government, without press conference—would respond to what people outside the beltway are demanding I strongly believe that Americans want to see us debate the budget, not use it to divide our country.

Americans are sickened by the hostile rhetoric, the blind partisanship, the misleading use of figures and facts. They are demanding some honesty, some comity, and some real attempts to craft a balanced budget that a huge majority of them and us can support.

That said, Mr. President, the budget before us is not the place to start a fruitful debate on balancing the budget. It has been written without the input of our party, the President, or any outside witnesses brought in for public hearings. It contains too many tradeoffs that I believe are unfair and unbalanced—and that I believe most Americans would believe are unfair and unbalanced.

Mr. President a report recently released by the Census Bureau showed the gap between our wealthiest families and low-income families growing to the widest point recorded since the Bureau began taking such measurements in 1967. That income disparity is a cancer that is eating away at economic productivity and the standard of living in this country. Any responsible balanced budget plan would take it into account and would certainly not make it worse.

The budget before us makes it worse. The bottom 51 percent of tax filers—those with incomes of less than $30,000—would be worse off under the Senate package than under current law, according to Joint Tax Committee data. Further, wealthy taxpayers—those with incomes above $200,000—would gain an average of $5,088 per taxpayer in the year 2000. How can I justify asking a sacrifice from so many while I myself would get a big tax break under this bill?

Mr. President, this basic unfairness—this basic unbalance—is the primary reason I will vote against this budget, and why I do not believe it can form the basis for the compromise we so sorely need. I can and will ask and stand 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.

Mr. President, I am afraid that we are missing an historic opportunity because of our focus on short-term political benefit. If we gave up our infatuation with sound bites and brinkmanship, we have the chance to pass a balanced budget, to undo the economic damage of the last decade. As this debate proceeds, I urge my colleagues on both sides to move toward the position most Americans have already taken: Stop tearing each other down and start building a future for this country with a bipartisan and fair balanced budget.

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. Americans are sick of the blind partisanship and misleading use of figures and facts. They are demanding some honesty, some cooperation, and some real attempts to craft a balanced budget that a huge majority of them and us can support.

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reason I will vote against this budget, and why I do not believe it can form the basis for the compromise we so sorely need. 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 on 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 of an average of $5,088 under this budget plan.

The primary reason for this imbalance is the cut in the earned income tax credit [EIC]—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 and 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 we made to working families. The EIC was enacted during the Ford administration and supported by every President since then. The EIC represents a bipartisan commitment to keeping low-income working families with children above the poverty line. In short, the EIC makes work pays better than welfare.

I have heard almost 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 EIC does this. If we cannot agree in this body to keep our promise to working families by preserving the EIC, 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 EIC as a program plagued by uncontrolled growth and fraud. If that were the case, we should certainly cut it back dramatically. But that is not the case.

Only 5 percent of the cuts in the EIC proposed by the budget are related to fraud—and our amendment keeps those cuts intact. The rest of the cuts re reductions in taxes that go directly to working families.

The average annual Federal tax hike proposed in this budget for the 262,000 Wisconsin families who get the EIC 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 chopping 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 $30,000 while give a big fat tax cut to people with $5 million estates.

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 pay the bills. When mom 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. And now 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 $200,000 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 receives a tax credit. The size of the 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 only to income that 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 this 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. These cuts in 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 120,000 Maryland families with two kids will have their tax bill go up by $474 a year.

Lets talk about what this tax increase means to real people. For Rhonda Clark, a 26-year-old mother from 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.

The EITC has a long history of 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 be praising it today. Not attacking 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 are 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 disincentive to people from remaining on public assistance rather than working at lower wage jobs, and was hopefully a major aspect of welfare reform. President Reagan called it the "best

antipoverty, the best pro-family, the best job creation measure to come out of Congress." Reagan proposed a significant expansion of the credit in the 1986 tax reform bill.

The House of Representatives has proposed a $23 billion tax increase on these same families by repealing the 1993 earned income tax credit expansion for families with two or more children, and by denying the EITC to families without children. Fourteen million EITC recipients—nearly half of the EITC recipients with children—would be adversely affected. Families with two or more children would be hardest hit.

The proposal before the Senate makes even more severe cuts. The proposal would increase taxes on 17 million households to raise $42 billion. A report by the Treasury Department shows that under the Senate proposal, 21 percent of families currently eligible for the EITC would lose their eligibility by the year 2005.

On a national level, the proposal will mean an immediate $300 average tax increase. For the 7.4 million families with two or more children, a $410 tax increase will occur. And the average tax increase will continue to go up over time, reaching $644 by the year 2005. These families include 18.5 million children.

In Massachusetts, 194,000 working families would face an average tax increase of $321 in the year 2002. For families with two or more children, the increase would reach $440.

Two-thirds of the proposed tax increase in the EITC would be achieved by repealing the final phase of the 1993 expansion for families with two or more children—an expansion promoted by President Reagan in 1986 and President Bush in 1990.

Also included in the Republican bill is a proposal to tax social security payments received by approximately one million widowed, retired, and disabled taxpayers who care for about 2 million of their own children, grandchildren, or other children. These social security recipients would face an average increase of $850.

The 1993 expansion was designed to keep a family of four with a parent working at the minimum wage above the poverty level, assuming the family also received food stamps. And we still haven't been able to achieve that.

The standard of living of working families has continued to deteriorate since 1979. In 1996, the real value of the minimum wage will decline to its lowest level in 40 years. Without an increase in the minimum wage, the EITC must do the job of raising the after tax incomes of working families.

We have heard too much rhetoric about the level of fraud and abuse. The facts do not bear out these accusations. Any fraud and abuse that had taken place has been largely eliminated through steps taken by the IRS to 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 less than 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 hike Federal taxes on 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, about 63 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—$3,600 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 can afford to increase the State earned income tax credit to make up this loss, with 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.

Mr. AKAKA. Mr. President, 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, working 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 million tax hike for families earning under $30,000 a year to finance $245 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 the 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; the brunt of deficit reduction in this bill comes 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.

Mr. President, despite the tremendous number of new 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 most working families have seen their standard of living erode. People are working harder and longer to make ends meet. The number of working

poor families and individuals living at or below the poverty line continues to grow.

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 proposed cut 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 $457 per year.

In 1996, 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 $10,000 will see their taxes climb by an average of $859 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 $500 per child tax credit will hit millions of working families and millions of children hard. Over 30 million children, 44 percent of our Nation's young people, would receive no benefit or only partial credit and not the full $500 proposed.

Mr. President, what message are we sending to working men and women? By raising income taxes on millions of Americans struggling to make ends meet and committed to work over welfare and making tax breaks paramount, the Republican reconciliation plan establishes disincentives to hard work and threatens the economic security of millions of American families.

I urge the defeat of S. 1357.

Mr. BRADLEY. Mr. President, I yield 4 minutes to the distinguished Senator from Washington State.

Mrs. MURRAY. Thank you, Mr. President. It is always a pleasure to be working with my colleague from New Jersey, Senator BRADLEY. It is unfortunate, though, today, that what we are trying to do is to fix the Republican budget and attempt to restore the earned income tax credit.

Mr. President, this Republican budget will cut $43 billion from the earned income tax credit, and in so doing, this budget will be raising taxes on those earning less than $30,000 a year.

I have to tell you, this is totally incomprehensible to me that while the Republicans are touting this budget and all the glory of its tax cuts, they are raising taxes on hard-working American families.

Where is the logic in this? As one of my colleagues recently stated, this is nothing more than reverse Robin Hood—taking from the poor in order to pay for tax breaks for the most wealthy in America.

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 provide security and hope? Or does it tell them they are 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 some hope for the future. Average Americans 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—this budget has no conscience 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 the rich.

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 colleague from New Jersey and urge all of our colleagues to support this sound, commonsense amendment.

Mr. BRADLEY. Mr. President, in 1993, Congress decided to give a 3-year tax cut to families earning under $30,000 a year. That is the earned income tax credit.

What the other side attempted to do is to say, "Do not give these working families earning under $30,000 a year the third year of their tax cut." 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; but 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 the 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 $75,000 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 cruelest 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

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 show 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 on working families in America.

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 facts on your side, 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 single 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. Anybody 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.

Mr. President, this is an issue that I think bears a very 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.

The PRESIDING OFFICER. 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 are paying for it by imposing a tax increase on them with a $43 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, and struggle to raise their children are middle class, admirable, and deserving of support and encouragement. Over 65 percent of our taxpayers are working hard but earn less-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 are 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 Helmick family of New Milton, West Virginia, will be worse off, not better. The Helmick family has 6 children, ranging in age from 15 to 4. 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 to buy baby furniture and to buy a used truck so Mr. Helmick has reliable transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt, not helped.

And families like the Helmicks who can not claim the child credit and are 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, 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.

I feel badly for 65 percent of 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?

The PRESIDING OFFICER. The Senator from New Jersey has 3 minutes and 18 seconds remaining.

Mr. BRADLEY. Mr. President, I have one final point.

The purpose of the earned income credit was to offset income taxes that working families pay—working 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.

What about Social Security taxes? What about excise 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. And 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 over 5 years. Then we will be able to see the difference between the two parties. Even on that issue, one wants to protect the family farm, and the other, of course, wants to give 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. And it is certainly not good policy in the context of a bill that raises taxes on working families that deserve a tax cut, not a tax increase.

Mr. WELLSTONE. Mr. President, is there any time left?

The PRESIDING OFFICER. There are 27 seconds remaining.

Mr. WELLSTONE. If I could amplify a point made by the Senator from New Jersey, it is not good politics either because people in the country—in case anybody has not noticed—yearn for a political process that they can believe in, a political process where they think they are represented. This does not look like such a process. This looks like something good for big players, heavy hitters, those who have all of the influence, with the vast majority of the people shut out. This is not a regular person's standard with this kind of break.

Mr. EXON. Mr. President, for the record, I would like to have the Chair advise the Senate of the time remaining on both sides overall.

The PRESIDING OFFICER. There are 3 hours left for the Senator from New Mexico, and there are 4 hours and 45 minutes remaining for the Senator from Nebraska.

Mr. EXON. I thank the Chair. As I understand it, we have now used up all time and completed debate on the amendment offered by the Senator from New Jersey. As I understand it, we are about then, per the previous agreement, ready to take up an amendment that I understand is to be offered by the Senator from Florida who I believe is in or near the Chamber with regard to Medicaid funding.

Is that the understanding that has been tentatively agreed to as far as the other side is concerned?

Mr. ABRAHAM. It is my understanding that Senator NICKLES reserved 10 minutes of time to speak on this topic. I am trying to ascertain whether he intends to use it.

Mr. EXON. On the EITC issue.

Mr. ABRAHAM. That is correct.

Mr. EXON. Then we would go to the Medicaid amendment.

Mr. ABRAHAM. That is my understanding.

Mr. EXON. I thank my colleague.

Mr. ABRAHAM. We are trying to determine if that reserved 10 minutes will be used or not.

Mr. EXON. Since Senator NICKLES is not here, in order to conserve time, could we temporarily set that aside and allow the Senator from Florida to proceed with his presentation?

Mr. ABRAHAM. We would be happy to enter into a unanimous-consent agreement, and we wish to reserve the 10 minutes of time for Senator NICKLES for whatever time later that he might be available.

I move that we temporarily lay aside the EITC motion so that we might proceed to the next motion. I believe it is, while reserving 10 minutes of debate on our side for the EITC.

The PRESIDING OFFICER. Is there objection?

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, simply a 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, and 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 time 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 the 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 would 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——

The PRESIDING OFFICER. The Chair would inquire: Has the Senator sent the motion to the desk?

Mr. GRAHAM. I have not but I shall in a moment.

This represents for most States 40 percent, or more, of all of their Federal grant in aid programs for highways, education, and law enforcement. Forty percent of all of the funds which come from the Federal Government to assist States in providing services to their people come through this one program of Medicaid.

It is the safety net under our entire health care system. While it represents well under 10 percent of health care spending in terms of the Federal commitment to Medicaid, it represents the safety net for virtually 100 percent of our health care system.

Yesterday, I heard some speakers talk about the fact that we are involved in this reform not just because we need to balance the Federal budget, which many of us, including this Senator, strongly support and have voted consistently for measures that will move toward the balanced budget and are very pleased at the report yesterday that for the third consecutive year we have reduced the degree of the Federal deficit, but beyond that goal of balancing the Federal budget, we need to rid ourselves of failures, of programs that were not functioning, that in some cases were even counterproductive.

Mr. President, while I will suggest some areas in which I believe the Medicaid Program can be improved, I will state emphatically this program is by no definition a failure. In one very dramatic area, infant mortality, this program has contributed substantially to a dramatic reduction in infant mortality in virtually every State. It has resulted in more babies being born at term, at full birthweight, fully able to begin the developmental process, and then it has helped poor mothers to be able to continue the health care for those babies after they were birthed.

This program is a program which has had flexibility to respond to changing circumstances which range in every degree from changes in population to changes in economic circumstances to natural disasters that impose unanticipated burdens upon a particular State.

I will talk later about my concern of the proposals in this reconciliation bill for the severe cuts in the Medicaid program, cuts which will reduce the annual average increase to 1.4 percent in comparison to the private sector's estimate that over this 7 years, private sector health care will increase at 7.1 percent per American citizen over each of the next 7 years; that that kind of disparity represents not a fine tuning of the Medicaid Program but, frankly, a collapse of the Medicaid Program and its ability to serve as the safety net. And finally, that the allocation of funds among the 50 States in the rigid block grant formula is inequitable, perpetuating inequities in distribution

which exist in the current law as well as rendering the program unable to respond to changes in circumstances among our 50 States.

MOTION 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. 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 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 Committee 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. I thank the Chair. I thank my colleague from Florida. I rise to support this motion and ask unanimous consent to be included as an original cosponsor.

The PRESIDING OFFICER. 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 for people in my State of Minnesota that I represent.

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 would 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, 535,000 by the year 2002. My State of Minnesota does not have the slightest idea what in the world we are going to do in response to 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 right now, in 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 this a 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: that people with developmental disabilities may live lives with dignity. But I will tell you what is going to happen. With draconian cuts in medical assistance, my State will not walk away from this community. It all gets put back on the State, 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 payments go to our 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 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. I was in a debate earlier. We have an estate relief tax break. 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 kinds of giveaways we have. 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 pay 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 go after some other folks that can 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 motion. It is about fairness. It is about 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 with the lives of the people we are here to represent.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. GRAHAM. Mr. President, I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. 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 live by. 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 families. We must preserve 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, but 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 out for people who were in nursing homes, 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 when people who have Alzheimer's or 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 motion.

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 reduces 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, under current law, the number of uninsured children will increase to 12.6 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. Eighteen million of them now have coverage under Medicaid. Ninety percent of those children are in families that are in the work force, either full time or part time. These are hard-working men and women at the lower level of the economic ladder that absolutely depend on this program for the range of health services that are provided under the Medicaid Program. And effectively, under the Republican proposal that is before us today, we are saying, "No longer will there be the guarantees of the prescreening services, no longer will there be the range of different health services for the children in this country." And why are we doing it? To provide tax breaks for the wealthiest companies and corporations in this country and the wealthiest individuals in this country.

Not only are we pulling out the rug from underneath the children in this country, but, again, we are pulling out the rug from underneath the seniors by eliminating Federal standards in nursing homes. I was here in 1987 during the time that Congress held some of the most shocking hearings that we have ever had in the U.S. Senate, when we found out what was happening to our parents in nursing homes across this country. We found that there were shocking conditions. And Republicans and Democrats got together and passed minimal standards in order to make sure that our seniors were going to be able to live in nursing homes with some peace and dignity and quality care.

Under this Republican proposal, effectively, we are taking out those guarantees and taking out those standards and at the same time failing to provide the assurance for those seniors and those parents that there will be decent, quality care in the nursing homes of this country.

Mr. President, this makes no sense for the same reasons that the cuts in Medicare make no sense. The Republicans are taking the funds out of the protections for children and out of the protections for the seniors of this country, and using it for tax breaks for the wealthy individuals and corporations of this country. And, Mr. President, in order to remedy that, we should embrace the Graham motion. That 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 every 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 adequate medical care today 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—90 percent—are in families with working parents. Most of 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 employers don't provide it and they can't afford it on their own. Even 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 done—one in four American 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 physician care is gone. The guarantee of hospital 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 bedsores were found widespread. Patients had been scalded to death in hot baths and showers, or sedated to the point of unconsciousness, or isolated from all aspects of normal life 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 Federal standards enacted by 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.

In addition, the cuts in Medicaid are so deep that even conscientious nursing home operators who want to maintain high quality care will be hard-pressed to afford the staff and equipment necessary to provide it.

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.

In a very real way, Medicare and Medicaid 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 American people voted for last November. They should be rejected out of hand by Congress.

I withhold the balance of my time and yield it to the Senator from Florida.

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 would be a collapse 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 8 years and Governor for 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 of bureaucratic intermeddling and a one-size-fits-all Washingtonian Medicaid Program.

Now, it should be noted after I left the Governor's office almost 3 years ago now, my successor, who is a Democrat, maintained largely the same set of professionals to run the program, so that the individuals who will talk about the program from that experience are not partisan individuals. Earlier this year, the director of the program in the State of Missouri indicated if they had a block grant, they could increase the number of individuals covered from 600,000 under the Federal plan, to 900,000 if they had the flexibility of doing with the funds what a State could do under the flexibility of a block grant.

Now, I do not call the extension of medical services to an additional 50 percent a collapse of the system. I call this an empowerment of State and local governments to be able to do something that they may or may not deem necessary. It gives them the flexibility to meet the needs of the indigent rather than to define this in terms of a collapse.

I was interested with the statement, particularly because it was now a statement from an individual in a Democratic administration of a Midwestern State. And after it appeared in the newspapers around my State last January, I inquired of the individual who came to my office to talk about these proposals in the summer. And I asked him point blank, "Is this the fact that you could increase the coverage from 600,000 people to 900,000 people if you were absent the redtape, if you had the same amount of money on a block grant?" His direct testimony was "yes."

Now, that is not a collapse of the system. Now, it may be politically expedient to talk about scare tactics and to talk about collapses, but the truth of the matter is, we are not going to provide the basis for a collapse. We are going to provide the basis for meeting needs, and meeting them effectively. And just a few moments after we had the collapse theory expressed on the floor here today, we had the we would not have the slightest idea of what to do theory expressed on the floor today.

I cannot believe that a State as profoundly well disposed as Minnesota would not have the slightest idea in terms of how to meet the needs of their citizens. It is stunning to me. As a matter of fact, they could look to the State of Missouri, or a number of other States, to find out.

Let me just tell you some of the Missouri experience. As a matter of fact, even if we do not have this major reform, Missouri is going to try and continue to expand its ability to serve through managed care. Next year, Missouri would have half of all of its recipients on managed care.

What does the system look like? What does the system look like if States have the right to design the system, because they have been given a partial right in my home State? Here is what it looks like in St. Louis.

Last year, they decided to offer to Medicaid individuals the option for managed care. They asked companies that can provide that managed care to provide proposals. There were eight or nine companies that competed to provide proposals. Seven of them were authorized as a menu so that the people who have needs could get those needs met in a managed care system.

People choose the HMO. People choose the provider system that they want. Nine out of every ten recipients of the program make a choice. The other 10 percent have to be assigned by the State. They do not have enough interest in their medical care to even make their own choice, but they are assigned.

What is interesting to me is this: That at the end of every year, including our pilot program in Kansas City and St. Louis, individuals have a right to switch from one system to another.

If this were a draconian system, if this were an abusive system, if this were a system where there was lots of dissatisfaction, you would expect to see a lot of people switching at the end of every year. You would expect to see people trying to find a better way, looking for a different company, finding a different provider. You would expect to see a tremendous outpouring of rejection of the system of managed care that the block grant would really endow every State with the capacity to implement.

Do you know what? Do you know what the rate of changing providers is every year at the end of the year in the State of Missouri? The rate is 1 percent. There is a 1-percent dissatisfaction rate, individuals—well, they may not be dissatisfied, they may just try something else or they may move to a different part of the city so a different provider would be more convenient for them.

A 1-percent—1 percent—change rate does not indicate a system which is in collapse. It does not indicate a system which is in chaos. You do not have a 1-percent change rate if your system is one where they do not have the slightest idea about how to meet the needs. When you have a 1-percent change rate, you are really doing well.

I cannot imagine a federally operated system where 99 percent of the people

were lauding the system and endorsing it by their sticking with the program, in spite of the fact they had six or eight other options from which to choose.

It has been said this is a shell game. Well, Mr. President, I say to my colleagues, it is a shell game all right to propose that this is chaos or this is collapse. We are not talking about reducing our commitment to individuals who are medically needy. We are talking about our ability to provide for ways of meeting their needs more substantially. If in Missouri we could expand from 600,000 to 900,000, just with ripping out the red tape, it is a shell game to say that we want to keep the old system.

Forty percent growth over the next 7 years in the resources—and if you could have a 50-percent increase in the number of recipients with the current amount of funds and you provide a 40-percent growth, this is empowerment, this is not shell, this is not collapse, this is not chaos, this is compassion, and I mean that seriously.

I just want to say that when we hear these arguments indicating that, "Oh, we're not going to be doing enough; there are children that are going to"—we have a system which is in collapse. We have a system which is in chaos. It says if to endow States with the capacity to correct the errors is going to promote collapse or chaos, we have collapse and chaos. That is what has happened in the welfare system of the United States. It not only collapsed financially, it has collapsed in terms of its humanity, and it is wasting resources. It is supporting in my State 600,000 people when the same resource could be supporting 900,000 people for medical care.

I might add that in the State of Missouri, this is not a State where we have to spend a whole lot of money to get the 99-percent satisfaction rate. Missouri is far below the national average when it comes to the kind of resources that are required to meet the needs of the medically needy.

So let us just try to set the record straight for a moment. Giving States the right and the opportunity to have cost reduction does not mean they are going to reduce the services. It may mean we are going to improve. It has in the State of Missouri, and I think it can in every other State.

Asking States to exercise their ingenuity in their capacity to rescue a failed system from the Federal Government does not mean we do not have the slightest idea about how we can meet the needs of individuals. I think that is an overstatement, even for Minnesota. I believe they will have a good idea, and I believe they can make it work.

This is an opportunity we have to change a failed system and to move from a failed system to a system that can succeed. It is not a tightfisted opportunity. It is not an opportunity that does not recognize that there will be additional needs. It is a system which provides for reasonable growth, but not unbridled expansion.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield 2 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Florida, and I certainly support his motion to commit.

Mr. President, what happens to parents who are struggling to try to balance the raising of children and, at the same time, caring for aging parents under the Republican proposal? 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 for some families. Not in West Virginia where two-thirds of our families would not get it.

Let us say for some families it is $500 a year, but the loss of Medicaid nursing home coverage in West Virginia would cost from $25,000 to $35,000 per family, because that is what a nursing home costs if you have to pay it yourself.

An example, Julie Sayers of Charleston, WV, cares for her mother who, as the Senator from Maryland was talking about, suffers from Alzheimer's disease, and she cared for her as long as she could at home, as children want to do, but when it came to the point that she could not care any longer, she had to take her mother to a nursing home.

Julie in this case gets a partial child tax credit, much less than $500 under the Republican package, but she cannot get Medicaid coverage for her mother in the nursing home. So what good is it, the child tax credit? What damage does the Medicaid cut do—$182 billion, $187 billion for a tax break for the wealthy.

Julie and her family are going to be a lot worse off under the Republican proposal, not better off, but worse off, and this is a real person caring for a real mother with Alzheimer's in West Virginia today.

Mr. President, I understand Medicaid needs reform, and Senator GRAHAM recognizes that there are responsible ways to reduce the rate of growth in Medicaid spending, but we really should not get down to the business of throwing seniors out of nursing homes. We really should not do that. That, in my judgment, is what the Republican amendment does.

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

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 20 minutes. The Senator from Florida has 13 minutes.

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 some 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 under the poverty level are 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 today. He said, "Medicaid used 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 they 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 and 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 indigent seniors.

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 expenditure-driven, 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 rates.

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 at a rate of 7 percent next year, and then it will vary thereafter, according to formulas developed by the States.

Again, looking to my own State of Tennessee, what is one of the fundamental problems? On this chart is the Medicaid expenditure growth from 1986 out to 1993. You can see that, on average, as illustrated by the red going across, the growth in Tennessee has been about 22 percent. And remember, this growth of 20 percent is competing in a State budget for other issues, whether it is infrastructure or education; it is crowding out other State expenditures. In 1992, you can see, in one State we had growth rates in Medicaid of 44 percent. It was about 14 percent in fiscal year 1993.

Well, in Tennessee, we looked at three solutions: No. 1, raise taxes again and again and again. That is what we have done a number of times over the last decade. The American people have said, "We do not want to have our taxes raised again and again."

Second, we can go through massive health care reductions. In Tennessee, we said "no." Or we can undergo fundamental change. Tennessee is one of six States who got a waiver from HCFA in order to carry out a plan. The plan has had mixed results. Let me show you what the results have been overall. It was a program called TennCare.

Given the flexibility we want to give all 50 States—and only 6 have it today—there were 12 competing managed care organizations who, through a total demonstration project, assumed the care for about 1 million people in Tennessee. Primary care access has been improving over time under the program compared to the old Medicaid system. Nonemergency use of emergency rooms has gone down over time. 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 1993, 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 we are, 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 1987, 1995 to 1998, we can see we have had this progressive growth up to 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 restrained over time. This is 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 waiver.

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 proposed 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 $350,000 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 $90 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 rooms 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 we get more 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 most 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 get insurance. 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 you have been to a nursing home lately, 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. That is good change.

This is evil change. This is bad change. This is greedy change. Support our friend from Florida.

Mr. ASHCROFT. 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 that when we refer to 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 in terms that the American 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 rid of 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 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 be 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.

I just walked in 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 from 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 not even any clearly defined 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 $168 million in the year 2002. That is not really a cut, is it? On an individual basis, the average Federal grant for each person in poverty will grow from $2,188 to $3,263, 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 costs by giving more flexibility to 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 put together 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 Governors' requests by granting 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 about that.

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 how that gives 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.

The PRESIDING OFFICER. Who yields time?

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. These cuts, over $386 million, 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 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 program. Well, sure they can, and I can tell you how. They can cut poor people 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. However, as we have finally 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 proposal cuts funds going to hospitals that care for a disproportionate share of patients that do not have insurance or other means to pay for their care as 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 deals in an effort to fix up 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. Medicaid covers poor children, pregnant women, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?

Coming from West Virginia, when I think of a family, I think about 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 $16,000 to $30,000 a year.

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer's disease as long as she could at home. But as her mother's illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother's meager savings are exhausted, Julie and her family will be much, much worse off. That child tax credit will not cover even a month of nursing home care for her mother.

This is real story about a family hurt, not helped by 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 my State as 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 would otherwise," he said. "Every dollar you spend on this side in 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 out of nursing homes, deny poor mothers access to prenatal care and possibly return to times when our 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 in the RECORD, as follows:

[From the Charleston Daily Mail, Oct. 20, 1995]

CUTS MAY AFFECT INFANT MORTALITY

The state Medicaid Crisis Panel 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.

At the insistence of Administration Secretary Chuck Polan, the Department of Health and Human Resources will prepare a priority list of money-saving measures it already is taking and those it thinks the state should take.

The list, with the amount each change would save, will be presented at the panel's meeting next Thursday.

The group will begin discussing its recommendations then, but will meet final time on Oct. 29 to reach an agreement, said Chairman from Haywood.

Meanwhile, state health officials and worried that proposed federal Medicaid cuts could increase infant mortality.

With the help of Medicaid-funded programs, West Virginia's infant death rate decreased from 18.4 deaths per 1,000 births in 1975 to 6.2 deaths per 1,000 births in 1994, officials said. The national rate is 8.0 deaths per 1,000 births.

Diane Kopcial of the state maternal and child health office said that when Medicaid expanded in the 1980s the state:

Recruited physicians to care for Medicaid patients.

Built a referral system with hospitals in Charleston, Morgantown and Huntington.

Began the Right from the Start program to serve Medicaid-eligible woman during their pregnancies and 60 days after they give birth. It also serves infants up to age 1. The program provides nutritional counseling, parenting education, and transportation to medical appointments.

The Women, Infants and Children program also provides nutrition and health education, free food and breastfeeding information for women and children under 5.

Medicaid has greatly increased poor women's opportunities to get medical care, and Phil Edwards, the administrative assistant for the Bureau of Public Health's Division of Women's Services.

"By making them eligible, they'll go in for prenatal care earlier than they would otherwise," he said.

"Every dollar you spend on this side in prevention, you save four on the other side where you don't have to treat an at-risk patient," Kopical said.

Mr. SARBANES. Mr. President, I rise today to join my Democratic colleagues in opposition to the Republican proposal to replace the joint Federal-State Medicaid Program with a block grant to the States.

Medicaid currently guarantees that 36 million low-income pregnant women, children, disabled, and elderly Americans have access to hospitals, physicians, nursing homes, and other basic health care. The Republican plan would eliminate this guarantee and cut Medicaid by $182 billion by the year 2002.

What the Republicans are proposing is to cut Medicaid and then lower the standards States must meet because they know that the standards cannot be met with the lower level of funding. In a recent letter to Members of the Senate, the National Association of Counties expressed quite correctly the natural consequence of this proposal. I quote from that letter:

We do not believe that States will find enough budgetary efficiencies without reducing eligibility. The flexibility given to States in the operation of 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.

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 long-term care of millions of our elderly. And these sweeping policy changes have been proposed, passed out of committee—and may well be passed by the Senate—without one official public committee hearing.

Because of this, I joined with a number of my Democratic colleagues earlier this month in convening several hearings on the Medicaid and Medicare programs. We wanted to hear from the people who will be affected by the proposed changes. During those hearings, we heard some very moving testimony regarding the impact the Republican plan to cut Medicaid will have on the lives of average, hard working middle-class Americans. Since many Members were unable to hear this very moving testimony, I would like to insert in the RECORD one of the more compelling statements presented at these hearings by Ms. Mary Fitzpatrick from Dickson, Tennessee.

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

TESTIMONY OF MARY FITZPATRICK

My name is Mary Fitzpatrick. I live in Dickson, Tennessee, about 50 miles outside of Nashville. Once again, I am in Washington to speak on behalf of the rights and needs of citizens in nursing homes. I use the word "again" because it was eight years ago that I sat before members of Congress and described a pattern of neglect and poor care that led to my mother's death in a nursing home in 1984. I spoke then because I wanted to do whatever I could to prevent another human being from the pain and denial of dignity that my mother, Maggie Connolly, endured. I did not want any other family to have to bear the agony of watching a loved one suffer because of lack of basic services and a system that fails to protect frail, vulnerable people. And I want to spare others the despair my family felt trying to persuade the state of Tennessee to enforce nursing home standards.

The account I gave eight years ago helped achieve bipartisan support for the 1987 Nursing Home Reform Act. Imagine my shock in learning of the current proposal to undermine this law.

I cannot believe Congress would consider returning to a system that renders quality nursing home care an option for states, especially when I know what the state did for my mother—absolutely nothing.

Obviously, lawmakers in Washington are out of touch with ordinary people. And that's who people in nursing homes and their families are—ordinary individuals seeking a safe setting and adequate services during en emotionally, physically trying time.

Ordinary people understand the need to control the federal deficit. Ordinary people realize the importance of ensuring accountability for public dollars paid to the nursing home industry each year.

What is beyond our comprehension is how elected officials can support a proposal that will hurt people who can not speak out for themselves.

As I explained in 1987, after my mother's admission to the nursing home, my daily routine soon became one of cleaning up my mother's waste, bathing her and changing her linen as soon as I arrived each afternoon. The facility denied my mother this basic care. I even had to fight for the supplies to provide that care myself.

My mother raised three children, and until a stroke at age 47 had worked in a bag manufacturing plant. Prior to her admission to the nursing home, she suffered from Parkinsons disease and congestive heart failure and lost her ability to speak. In 1983, her condition quickly deteriorated. After a two week hospital stay, she became incontinent and her doctors advised us she would need to go to a nursing home. I favored a nursing facility near my home. Unfortunately, my mother's source of payment, Medicaid, was not preferred by that facility which refused her admittance.

Upon recommendation and a tour of the chapel, lunchroom and some of the residence floors, we chose a facility then called the Belmont Health Care Center. From day one, my brother, sister and I visited mother regularly. My brother even changed shifts so that he could see her each afternoon,. I would come by directly from work, missing dinner to stay until 8:30 or 9:00 p.m. Weekends also involved regular visits from family and friends. There was never a day during my mother's nursing home stay that she did not receive care and attention for several hours from family members or friends. Still, the problems began almost immediately.

On the third day of my mother's nursing home stay, I found her seated in her own waste in a wheelchair. Giving up on finding any staff to assist me, I changed mother's clothing and cleaned her up myself. Soon after I was unable to find any clean linens and was informed of a new policy allowing each residents just two sets of linens. I was persistent and was able to obtain some fresh linens. But there was always a shortage of supplies and on many days, I had to search the linen closets on several floors to find a single set of clean bed linens.

Within six weeks my mother developed her bed sore. Eventually the sores covered her body, making it impossible for her to lie without pressing on the painful skin ulcers. By the time she died eight months later at the age of 75, one of the original sores measured about three inches across and nearly two inches deep. The staff never carried out the instructions on regularly repositioning her. My brother, sister and I would turn her while we were there, but she was supposed to be turned every two hours around the clock. Nor was there sufficient staff to properly care for my mother's bed sores. Two nurses showed me how to clean the bed sores and told me where to purchase special medical dressing. I bought and used them regularly, but the nursing home administration continued telling me that they couldn't find out whether the pharmacy carried these dressings.

There were other problems. Residents like my mother who were unable to reach out for water could go for many hours without anything to drink. My mother's roommate told us how my mother once had dabbed a Kleenex and spilled water on a tray and held it in her mouth to relieve her thirst. Throughout this ordeal none of the family or friends caring for my mother knew where to go for help. Finally a friend located someone on the

Tennessee Department of Health and Environment Nursing Home Inspections staff. I called him and explained our concerns about retaliation. He promised confidentiality and said someone would be out within the next few days. But it wasn't until a few weeks that a state inspector came. One of my complaints involved getting proper care for my mother's bed sores.

Then two days after the state inspector's visit I came to the facility and found my mother's sheets soaked in blood. She was lying on her side crying. I pulled back the covers and saw her bed sores had been debrided, which means surgically cut to remove the dead tissue. 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 think mother probably went into shock. But, in any event, she died two days later on July the 7th, 1984. When I was getting ready to go to the funeral home the state inspector called me to say that they had been out a few days before to investigate my allegations of three weeks ago. He said I would be pleased to know that most of my complaints had been substantiated. I told him it was too late. My mother was dead.

The undertaker told me he had never seen a body is such bad condition, and that he had to enclose the lower half of mother's body in a plastic bag. One of the most disturbing things about this whole ordeal is that my mother was aware of what was going on, even though she could not express herself, other than through gestures and facial expressions. And, all the while, I was haunted by the fact that other people in nursing homes, both young and older, were going through the same hell that my mother went through.

It has been very difficult to have to relive this experience the second time around. But, it is even harder to accept the fact, Congress is preparing to destroy a law that would have saved my mother and so many others, so much pain and suffering. Thank you for the chance to speak. I would be glad to try and answer any questions.

Mr. SARBANES. Mr. President, Ms. Fitzpatrick laid out before us in detail commonly found nursing home conditions before passage of Federal nursing home minimum quality standards. The Republican plan we are considering would repeal the minimum quality standards for nursing homes. In my view, such a proposal is mean spirited and illogical.

Morton Kondracke in a recent column described the consequences of this proposal:

> The Republicans need to face up to the fact that, if they go through with their planned reforms in poor people's healthcare, instances of abuse, neglect, broken bones, urine-soaked beds and filthy surroundings will multiply in the years to come.

Mr. President, those were the very conditions that led to the enactment of the 1987 legislation. And now they want to repeal these standards. They want to repeal them because they know that without them some nursing home—some, not all—but some nursing homes will be able to absorb the reduced funding by lowering their standards of care. They will return to the old days of mistreatment and nontreatment which Mary Fitzpatrick and Morton Kondracke described as a means of cutting costs to respond to the slashed funding. Other nursing homes—the ones that do not lower their standards—may simply stop serving those families which cannot afford to pay $50,000–$60,000 a year for nursing home care. And who will this affect? The 4 million elderly who depend on Medicaid for their nursing home care and their families.

Mr. President, our Government should not renege on its commitment to ensuring that millions of needy, disabled, and elderly Americans receive essential basic health care. The Republican proposal, which would eliminate such guarantees, could have disastrous consequences for many citizens, and I would strongly urge my colleagues not to go down this path.

Ms. MIKULSKI. Mr. President, I rise today in strong support of the Democratic leadership amendment to restore over $125 billion to the Medicaid Program.

Our Republican colleagues constantly remind us how important family values are to them. I think that's great. Families are the backbone of our society. They provide nurturing and loving environments for our children. They provide stability and safety, and foster values we need to become better people and a better society.

What are family values? I'll tell you what I think they are. I think family values are honoring your mother and father. I think family values are honesty—keeping promises. Family values are care and dedication to the well-being of those you love.

Family values are not breaking promises, they are not telling your mother and father that they'll have to do without medical care, and they're absolutely not about risking the safety of your parents when you can no longer provide the care they need and have to put them in a nursing home.

Mr. President, there are 18 million children in the United States who depend on Medicaid. There are more than 900,000 elderly people who depend on Medicaid for their nursing home care. There are 6 million disabled Americans who depend on Medicaid.

The wealthy won't be affected by these draconian cuts. It's likely that the vast majority of the 100 Senators in this room won't be affected, nor will most of the 435 Members of the House.

The people who are affected are normal, regular, everyday Americans. Not big-time lobbyists; not big-money campaign contributors. The people who are affected are people like my neighbors, my mom, and the kids who go to St. Stanislaw's Catholic School right down the street from me.

Mr. President, there are 6 million disabled Americans who rely on Medicaid because they cannot get private health insurance. It's not because they don't want it. It's not because they can't afford it. It's because no private insurance company will cover them. Without Medicaid, where will they go? I believe that I am my brother's keeper. We have a responsibility to our fellow women and men. Make no mistake about it.

Mr. President, Medicaid is a program that benefits a broad spectrum of Americans. One in five children in America—18 million kids—receive their health coverage through Medicaid. One in five. Healthy children are the first step to a strong America. The next generation must be healthy in body and mind in order to make the large contribution to our society that we're all trying to prepare them for.

These kids don't understand Medicaid. They don't understand the process, and, quite frankly, they probably don't care. But their parents do. Their parents worry themselves sick about whether or not we're going to take away their ability to get medical care for their kids.

I worry myself sick about that too. But there's a difference. I have a vote on this floor, and I have the bully pulpit. And I want them to know that I'm on their side. I'm fighting for them. I want the parents of the 18 million children on Medicaid to know that I stand ready to help them help themselves.

I'm glad this legislation does not repeal the Spousal Impoverishment Act. I authored this act in 1988. And I'm here to tell you I'm standing sentry to make sure this critical protection is maintained.

My dad died of Alzheimer's disease. My mom, my sisters and I made use of a long-term care continuum in Maryland. We took Dad to a geriatric evaluation center at Johns Hopkins to be sure we knew what was wrong with him and how to keep him at home with us longer. We used adult day care to stretch out his ability to stay with us and to help with respite care for my mother—a heart bypass survivor. But we reached a point when we knew we couldn't give him the level of care that he needed. And we had to bring him to a nursing home.

I visited my dad all the time at his home. It wasn't a Cadillac, Gucci-style nursing home. Dad would have hated that. It was a real nursing home with real patients who had real families.

Over time I got to know those families. I listened to their stories—to their trials and their tribulations. I heard stories about how you had to spend down your life savings to $3,000 before you could qualify for help. Families had to go into bankruptcy while they were trying to practice family responsibility.

My dad wasn't the kind of guy who wanted a fancy tombstone. He wanted to make sure that what he left behind would help others. I made a promise that I'd try to change the cruel rules of Government that penalize families who have saved all their lives.

I'm so proud that with the help of great men like Lloyd Bentsen, George Mitchell, TED KENNEDY, and the members of the Finance Committee, we changed that law so that now you can

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 it never, ever is. 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 safety standards! That is horrific.

As I just said, my father was in a Chevy Cavalier nursing home—not a Cadillac nursing home. But we all knew that he would be fed, he would be taken care of, he would receive his medication, we wouldn't have to worry about restraints, we wouldn't have to worry about abuse. We knew that because of the standards, dad would be safe.

In 1983 Congress commissioned a study by the Institute of Medicine at the National Academy of Sciences. This study revealed shocking deficiencies in nursing home care. In 27 States, at least one-third of facilities had care so poor that it jeopardized 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 the charge 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're making the effort 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 per individual recipient, an individual cap. This approach would hold down cost increases without undermining Medicaid as a health insurance program.

MEDICAID IN CALIFORNIA

Medicaid, called Medi-Cal in my State, pays for health care for 6 million Californians. Out of these 6 million, 38 percent are children. Medicaid pays the bills of over 60 percent of children in California's children's hospitals. At Oakland Children's Hospital, it pays for 70 percent.

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 50 percent of all HIV/AIDS care. Medicaid 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 health safety net in California, insuring everything from basic inoculations for poor children to sophisticated advanced treatment for AIDS.

MEDICAID COST INCREASES

As a former mayor, I know the difficulty of balancing budgets and keeping costs under control. And there is no doubt that Medicaid costs, along with general health care inflation, have grown at double digits, creating tremendous pressure on government budgets at all levels.

The amendment before us reins in Medicaid's growth, but instead of cutting $187 billion, it cuts $62 billion, one-third of the cut in the Republican bill.

WHY THE GRAHAM AMENDMENT IS BETTER THAN THE ROTH BILL

Why is this approach preferable to the committee bill?

First, it does put restraints on spiraling costs.

Second, it preserves coverage for those who cannot get health insurance on the private market because of costs or the individual's health condition.

Third, a per capita cap can respond to changing conditions—population growth, recessions, base closings, natural disasters, immigration.

CALIFORNIA AND FLUCTUATIONS

The per capita cap approach in this amendment would enable my State to respond to all the economic fluctuations that we live with daily.

Unemployment in California has not dropped below 7 percent since 1990. While the country added 3 million jobs between 1991 and 1993, California lost nearly 450,000.

Base closures and realignments have erased more than 200,000 jobs, sucking $7 billion out of the State's economy. Defense and aerospace industries are downsizing.

Some 6.5 million or 23 percent of our nonelderly population are without health insurance. In some urban areas, the uninsured rate is as high as 33 percent. Over half, 58 percent of the uninsured, are children and young adults.

Employer-provided health insurance is declining. Two-thirds of Californians employed by firms with fewer than 25 employees do not receive health insurance.

California is home to 38 percent of all legal immigrants in the U.S.

A flat block grant with a fixed pool of money cannot respond to changing needs like this. A formula that is responsive to numbers of beneficiaries, like this amendment, can.

NURSING HOME CARE

The amendment before us would preserve nursing home standards, standards that S. 1357 eliminates.

Responding to a National Academy of Sciences report, Congress in 1987 enacted nursing home standards to promote quality of life of nursing home residents and to prevent abuse and neglect. This bill repeals those standards, rules designed to prevent bedsores, dehydration, malnutrition, infection; rules designed to protect privacy and human integrity. These standards have reduced injury and cut the use of chemical restraints, which in turn has reduced costs.

In California, 65 percent of our 113,000 nursing home residents rely on Medicaid. This is 113,000 elderly and disabled people, patients with, for example, Alzheimer's, AIDS, and ventilator needs.

Twenty-one percent of nonelderly nursing home residents are disabled. Seventy-five percent of nursing home residents are women. The typical nursing home resident is an 83-year-old widow with multiple chronic conditions, such as crippling arthritis or osteoporosis.

We should not take away these minimal protections for the most frail and make them victims again.

MEDICAID—A MIDDLE-CLASS PROGRAM

Medicaid is health insurance for low-income Americans and the disabled. But it is important to understand the implications Medicaid has for the middle-class. Nursing home standards, which are required as a condition of receiving Medicaid payments, benefit every nursing home resident of whatever income.

By cutting Medicaid, we add to the rolls of the uninsured which means that more people show up in emergency rooms with exacerbated illnesses. We all pay for that.

Medicaid reimbursement to our public hospitals enables these hospitals to have up-to-date trauma centers and emergency rooms which serve Medicaid and non-Medicaid patients. These are critical institutions in many communities on which we all depend. Indeed, these institutions are at the economic core of thousands of communities and they provide jobs.

A BASIC PROTECTION

The committee bill makes drastic cuts in Medicaid and it revamps the program in a way that cannot respond to the growing needs of California and changes a steadfast program of health insurance to an arbitrary, ill-defined block of Federal funds.

The bill purports to transform Medicaid. I'm afraid that it destroys Medicaid.

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 this bill 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, and 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 my home State. These are 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 had 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 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. If 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 senior 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 life of work and contribution to country and family, that we are not going to be sure on a national level that people are protected from unhealthy and unsafe conditions?

Those of my colleagues who served in State legislatures, or served as Governors of their State, will certainly confirm that Medicaid makes up a huge portion of the State budget.

And, Mr. President, if they have any passing knowledge of their State's Medicaid program, they will also confirm that the bulk of the Medicaid budget, and the source of the greatest growth in that budget, is probably the growing demand for long-term care services, typically nursing home care.

This is certainly true for Wisconsin.

But, Mr. President, in Wisconsin, back in the late 1970's, we came to the realization that unless significant reforms were enacted, the rapidly increasing nursing home use would be too heavy a load for the States' budget to sustain prudently.

Through a bipartisan effort—and Mr. President, I stress bipartisan because Governors and legislators from both parties supported the effort—we made some significant reforms to our long-term care system.

The centerpiece of that reform was the creation of a home and community-based program, called the Community Options Program, or COP.

COP provides flexible, consumer-oriented and consumer-directed services that help keep the disabled of all ages in their own homes and communities.

It builds upon the existing set of so-called informal supports—the caregiving done by family members and friends.

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 program and dumping responsibility in the laps of State policymakers.

Mr. President, this is a prescription for disaster.

For 30 years, States have made policy decisions based on one set of 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 wean 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 2 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.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself 1 minute to just recapitulate the point that has been made on our side in the last hour of debate.

Our position is quite simple—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 growth in spending that has been outlined in the reconciliation bill can still provide the sorts 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 are being brought under control in the private sector through such things as competition and other market factors.

Let us 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, Jan. 31, 1995]

GOP GEARS UP TO GRAPPLE WITH MEDICAID: STATES COULD DESIGN OWN PROGRAMS

(By Kathleen Best)

Republican Congressional leaders said they would take up legislation in the next few weeks that could dramatically change the way states provided medical services to the poor.

Illinois Gov. Jim Edgar said after a meeting with GOP Congressional leaders that they were willing to consider giving states lump-sum payments and letting them design their own health-care programs for the poor.

"Let us determine who's going to be in the program," Edgar said. "If the money's not there, then we'll have to make some tough decisions."

In return for greater state flexibility, the states would have to agree to hold down future costs, which they split with the federal government.

"They seemed very sympathetic and agreeable to giving us flexibility," Edgar said. "And they said they would like to try to get this thing going within the next few weeks."

Edgar, a Republican, is the lead negotiator of Medicaid for the Republican Governors Association. He met Monday with Sen. Robert Packwood of Oregon, head of the Senate Finance Committee, and with Rep. John Kasich of Ohio, the House GOP's point man on the federal budget.

Edgar said no firm agreements came out of the meeting. But he said both House and Senate GOP leaders "are willing to move much quicker than we had hoped for," in part to try to hold down increasing costs for the program.

Medicaid is now the third largest entitlement program in the nation after Social Security and Medicare. The health benefits to the poor cost states five to eight times more each year than providing cash, food and other benefits to poor mothers with children.

For the last few years, Medicaid also has been one of the fastest-growing programs. Illinois, for example, now spends more on Medicaid than it does on education. And Missouri spends more on Medicaid than on any other program.

Both states are seeking permission from the Department of Health and Human Services, to change their Medicaid programs. But those requests—both pending for months—remain unanswered.

Illinois wants to move to a managed care system that would encourage the poor to get medical treatment from health maintenance organizations or a designated family physician rather than seeking more expensive care in emergency rooms.

Missouri also wants to start a managed care system for its 600,000 Medicaid recipients. It would use money save to provide medical coverage to another 300,000 Missourians who do not qualify for Medicaid coverage now and who also cannot afford insurance.

Edgar said the reforms that he would push for would do away with the need for states to seek federal permission to make such changes. Such permission is now required because the federal government pays for 50 percent of Medicaid costs in Illinois and 60 percent of the costs in Missouri.

Federal reimbursement rates are based on the per capita income of a state, which means poorer states get more federal money.

"One of the major things driving the Congress right now is the bottom line—how do you balance the budget," Edgar said. "You can't balance the budget unless you attack the Medicaid problem.

"We're not talking about just throwing people off the rolls, but creating a more efficient program," he said.

Although Medicaid affects millions of poor Americans and accounts for billions of dollars in annual spending, the issue had remained on the sidelines of the welfare reform debate while Congress focused on changing the programs that provided cash, food and housing to mothers with children.

"The discussion of welfare reform has been far too narrow," Missouri Gov. Mel Carnahan said. "It really comes from some of the anecdotal talk about the welfare queen and all this sort of thing as opposed to really thinking through what you want to do—lifting people up to self-sufficiency and work."

President Bill Clinton, in a meeting Monday morning with the National Governors' Association, said he would be willing to consider some changes in Medicaid, but he provided no specifics, participants said.

Clinton promised the governors more flexibility in their welfare programs but insisted on safeguards for children.

Donna Shalala, secretary of health and human services, said later that if the federal government did not give states permission to experiment with Medicaid, "then we will have failed with welfare reform."

Edgar said he planned to meet again next week with GOP congressional leaders to work out a consensus on what needed to be changed. In the meantime, he said, he would talk to both Democratic and Republican governors.

He predicted that changes in Medicaid would not set off the same kinds of partisan wrangling that have kept the nation's governors from reaching an agreement on food, housing and cash assistance to the poor.

"Welfare is important, but if you really want to get to what drives most governors up the wall, it's Medicaid," he said.

Mr. ASHCROFT. Mr. President, I also ask unanimous consent to have printed in the RECORD, another St. Louis Post Dispatch article, published on the 24th of November of last year, which is similar:

State officials estimate that that provision would result in health insurance coverage for 300,000 people who cannot afford it today—about half the State's uninsured.

That provision referred to is one which would waive 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:

[From the St. Louis Post-Dispatch]

GOP PLAN MAY LET MISSOURI ALTER MEDICAID—WAIVER WOULD ALLOW COVERAGE OF HALF OF STATE'S UNINSURED

(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.

"Since this is a request for state flexibility, it is in line with the Republican agenda," said Donna Checkett, 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 at the same time it expands the program to include 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 participants.

In addition, Missourians who now earn too much to qualify for Medicaid but too little to buy private health insurance would be allowed to buy into the state-run program at reduced rates.

State officials estimate that that provision would result in health insurance coverage for

300,000 people who cannot afford it today—about half the state'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 Republicans poised to take control of 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 have been a lot of questions—both from Washington and in the state—about 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 as some move in and out of institutions, sometimes living on the streets and occasionally disappearing from the system.

"Managed care is tricky with basically health people," Checkett said. "It's more challenging when you are dealing with the Medicaid population. When you are dealing with the mentally ill, you need to strike a balance very carefully and be very certain how appropriately you have balanced the cost interest with protecting a vulnerable population."

The state originally proposed setting up a pilot project that would carve out a package of behavioral health services for everyone on Medicaid that would be managed by a behavioral health organization.

But that approach resulted in howls of protest from mental health advocates and others, and has been, in effect, scrapped.

Chekett said no alternative plan had been decided, although negotiations were under way.

"Missouri is not alone in wrestling with this, I can guarantee you," said Checkett, who is chairman of the association representing state Medicaid directors.

"If you were to poll other states, you would find this issue of how to treat individuals with chronic mental illness has been a big one. It's been the hardest project 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 cost controls.

"Those are questions we have ourselves and are working on," she said. "We hope we will be able to pay better rates for primary care under a managed 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 emergency rooms.

"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 approval in the spring. That 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 states to experiment with new approaches may also throw a wrench into carrying out such plans.

GOP legislators already have begun talking about major changes in Medicaid and welfare funding, which could force Missouri back to the drawing board.

"I am concerned, 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 time?

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 HMOs," 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.

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. Otherwise, these patients would be cared for under fee-for-service programs with few ways to control costs. HMOs, by contrast, agree to treat patients for a fixed monthly fee, regardless of the services the patients require.

HMOs do this profitably by stressing prevention and managed care that denies patients access to unneeded and costly medical specialists, procedures and tests. The Carnahan administration estimates that the shift to HMOs could save the state as much as $11.6 million in the first 12 months. That may seem like a mere ripple in a Missouri Medicaid budget of about $2 billion, about half of which comes from state funds, but these savings mark an important step toward improved cost control.

Seven HMOs have contracts with Missouri to treat the state's Medicaid patients. Their monthly per-patient fees vary. The fee for Medicaid-eligible women between the ages of 21 and 44, for example, ranges from $120.30 to $127.35. The monthly per-patient fee for children between the ages of 7 and 13 ranges from $42.95 to $46.39.

Regional is a big winner because at least 33 percent of the 121,890 Medicaid patients have enrolled in HealthCare USA, the HMO coowned by Regional. Two other HMOs also are using Regional as the preferred provider of services under their plans. Some officials estimate that Regional could end up providing care for nearly half the Medicaid-eligible patients in the St. Louis area.

Whether these numbers will be sufficient to help Regional balance its budget and provide care for the uninsured is uncertain. In the last fiscal year, the hospital provided $40 million in care to indigent patients. This year, the hospital is facing a shortfall of at least $11 million because of reductions in federal funds for indigent care. In all probability, the city and county, which set up Regional, will have to cover this deficit.

Ideally, Regional's entry into the HMO business will help it pay more of its bills without having to rely on local subsidies. But the city and county must keep in mind that lots of the community's indigent patients don't have access to Medicaid. In other words, St. Louis and St. Louis County will continue to have an obligation to assist Regional in providing care for these patients.

Mr. ASHCROFT. Mr. President, I also ask unanimous consent to have printed in the RECORD an article from the Tennessean, published on October 24, 1995, which praises the success of Missouri's use of managed care for its Medicaid population.

I thank the Chair.

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

[FROM THE TENNESSEAN, OCT. 24, 1995]

TENNCARE COULD TAKE SOME NOTES

COVENTRY EXEC COMPARES PLANS

(By David A. Fox)

Tennessee may be in the vanguard of Medicaid reform with its TennCare program, but Missouri is the state that is pulling off Medicaid privatization most successfully, a local managed care executive said yesterday.

With a more incremental approach, Missouri has managed so far to avoid some of the problems that have plagued Medicaid reform here and in Florida, said Philip Hertik, chairman of Conventy Corp. Nashville-based Coventry, which does not participate in TennCare, is one of seven organizations 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 Loews Vanderbilt Plaza Hotel, Hertik cited several strengths of the Missouri plan to provide 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 was chosen to 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.

Hertik called the privatization of Medicaid "the biggest thing in managed care in the past 15 years" and one of several trends revamping the industry. With the companion trend toward privatizing Medicare, he forecast that market leverage increasingly will shift to managed care organizations and away from hospitals and other providers, such as home health, which traditionally have received a majority of their payments directly from government programs.

Probably 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 the elimination of redundant services.

"All of this is aimed at market leverage, rather than just economies," he said.

The deals, including health maintenance organizations buying traditional indemnity insurors, are intended to increase the membership in local managed care plans.

"But having sheer size 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 establishing clinical guidelines, practicing disease management and measuring outcomes.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, has the Senator from Michigan completed his presentation?

The PRESIDING OFFICER. There are 14 seconds remaining for 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 seconds.

Mr. GRAHAM. Mr. President, there 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 are 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 in this program 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 not an answer to that 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 the private sector, 7 percent in Medicaid. This is what has been the level of 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. Infant mortality in America 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. In most States 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 for long-term care.

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 2002 to be 47 percent. There has been 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 three basic reasons why Medicaid has been increasing over the last few years, not because of oppressive Federal regulations.

Another thing that has not been discussed is the allocation formula. 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 to 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.

What is 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. Where are the voices for President Reagan today? This great advocate of a strong national program to protect the health of our children needs to be heard today.

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 1 percentage point 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 6.1 percent per year over the next 7 years, 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 frail 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 allow 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 into 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 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 program 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 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 scores of organizations in opposition to the Republican plan and in support of the proposal that is before us 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 seniors, 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, disincentives for providers to serve this population, and untenable cost 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 the 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.
American Speech-Language-Hearing 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 on Human Needs.
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.
Mennonite 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 Councils.
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.
National Family Planning and Reproductive Health Association.
National Jewish Community Relations Advisory Council.
National Mental Health Association.
National Treatment Consortium.
National Women's Law Center.
Neighbor to Neighbor.
NETWORK: A National Catholic Social Justice Lobby.
OMB Watch.
Planned Parenthood Federation of America.
Protestant Health Alliance.
Service Employees International Union.
Spina Bifida Association of America.
The Alan Gutmacher Institute.
The American Geriatrics Society.
The Arc.
United Cerebral Palsy Associations.
West Virginia Developmental Disabilities Planning Council.
Women's Legal Defense Fund.
World Hunger Year.
YWCA of the U.S.A.

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 far 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 has kept the number of uninsured children from skyrocketing.

But as the drop in private insurance continues, if Medicaid shrinks instead of picking up some of the slack, children will lead in paying 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 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 capitals 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 children and destroy a system of assured health care that is fundamental to the health of millions of America's children and pregnant women is unacceptable.

Sincerely.

Action for Families and Children (DE).
AdoleScent Pregnancy ChildWatch, Los Angeles County (CA).
Advocates for Children and Youth, Inc. (MD).

Advocates for Youth.
Advocates for Connecticut's Children and Youth (CT).
Agenda for Children (LA).
Aids Foundation of Chicago (IL).
Aids Policy 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 Federation of State, County and Municipal Employees.
American Medical Student Association/Foundation.
American Nurses Association.
American Occupational Therapy Association.
American Public Health Association.
American Speech-Language-Hearing Association.
Americans for Democratic Action.
Anacostia/Congress Heights Partnership (DC).
APPLEServices/Crisis Center of Hillsborough County, Inc. (FL).
Arkansas Advocates for Children and Families (AR).
Arkansas Children's Hospital (AR).
A Sign of Class (MN).
Asian and Pacific Islander American Health Forum (CA).
Association of Medical School Pediatric Department Chairs.
Baystate Medical Center Children's Hospital (MA).
Bazelon Center for Mental Health Law.
Beckland Home Health Care, Inc. (MN).
Belfast Area Child Care Services, Inc. (ME).
Bellefaire (OH).
Berkeley Oakland Support Services (CA).
Bread for the World.
California Children's Hospital Association (CA).
Cash Plus (IN).
Catholic Charities Office for Social Justice (MN).
Center for Human Investment Policy (CO).
Center for Law and Human Services, Inc. (IL).
Center for Multicultural Human Services (VA).
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 for Missouri's Children (MO).
Citizen's Committee for Children of New York (NY).
Citizenship Education Fund.
City of Alameda Democratic Club (CA).
Coalition for a Better Acre (MA).
Coalition for Family and Children's Services in Iowa (IA).
Coalition for Mississippi's Children (MS).
Coalition on Human Needs.
Coleman Advocates for Children and Youth (CA).
Colorado Association of Family and Children's Agencies, Inc. (CO).
Colorado Council of Churches.
Colorado Foundation for Families and Children (CO).
Community Action Program of Palm Beach County (FL).
Community Concepts, Inc. (ME).
Community Empowerment Concepts (MD).
Community Psychologists of Minnesota (MN).
Concerned Graduate Students in Public Health in Seattle (WA).
Congress Park Plaza Apartments Resident Services (DC).
Connecticut Association for Human Services (CT).
Coordinated Child Care of Pinellas, Inc. (FL).
Corpus Christi American Federation of Teachers (TX).
Council on Women's and Infants' Specialty Hospitals.
Courage Center (MN).
Covenant House (NY).
Council of the Great City Schools.
Crossroads Program, Inc. (NJ).
Driscoll Children's Hospital of Corpus Christi (TX).
Elim Transitional Housing, Inc. (MN).
Elks Aidmore Children's Center (GA).
Episcopal Community Services, Inc. (MN).
Equality Press (CA).
Face to Face Health and Counseling Service, Inc. (MN).
Families USA.
Family and School Support Teams (FL).
Family Resource Coalition (IL).
Family Resource Schools (CO).
Family Support Network (MO).
Family Voices.
Firstlink (OH).
Florida Legal Services, Inc. (FL).
Food Research and Action Center.
For Love of Children.
Fremont Public Association (WA).
Friends of Children (WI).
Friends of the Family (MD).
Friends of Youth (WA).
General Board of Church and Society, The United Methodist Church.
General Federation of Women's Clubs.
Georgians for Children (GA).
Greater New Brunswick Day Care Council (NJ).
Hathaway Children's Services (CA).
Health and Welfare Council of Nassau County, Inc. (NY).
Healthy Mothers/Healthy Babies, Florida Association (FL).
Hinds County Project Head Start (MS).
Hispanic Human Resources (FL).
Johns Hopkins Child & Adolescent Health Policy Center.
Indiana Coalition on Housing and Homeless Issues (IN).
Institute on Cultural Dynamics and Social Change, Inc. (MN).
Interhealth (DC).
Jack and Jill of America, Inc.
Jacksonville Area Legal Aid, Inc., (FL).
Juvenile Law Center (PA).
Kansas Action for Children (KS).
Kansas Association of Child Care Resource and Referral Agencies (KS).
Kansas Association for the Education of Young Children (KS).
Kern Child Abuse Prevention Council, Inc. (CA).
Kids Public Education and Policy Project (IL).
Lakeside Family and Children's Services (NY).
Lawyers for Children, Inc. (NY).
Legal Assistance Resource Center of Connecticut (CT).
Los Alamos Citizens Against Substance Abuse (NM).
Los Angeles Coalition to End Homelessness (CA).
Louisiana Maternal and Child Health Coalition (LA).
Lucille Salter Packard Children's Hospital (CA).
Lutheran Children & Family Services of Eastern Pennsylvania (PA).
Masschusetts Advocacy Center (MA).
Mennonite Central Committee, Washington Office.
Mental Health Association in Texas (TX).
Merrie Way Community for Arts and Humanities (CA).
Michigan Coalition for Children and Families (MI).
Michigan Council for Maternal and Child Health (MI).
Michigan League for Human Services (MI).
Minnesota Association of Community Mental Health Programs (MN).
Minnesota State Council on Disability (MN).
Mississippi Human Services Coalition (MS).
Montana Low Income Coalition (MT).
Mothers Protecting Children, Inc. (CT).
Multnomah County Chair Beverly Stein (OR).
National Association of Child Advocates.
National Association of Counties.
National Association of County and City Health Officials.
National Association of Homes and Services for Children.
National Association of Public Hospitals.
National Association of School Nurses.
National Association of Social Workers.
National Association of Developmental Disabilities Councils.
National Center for Clinical Infant Programs (Zero to Three).
National Center for Youth Law.
National Committee to Prevent Child Abuse.
National Community Mental Healthcare Council.
National Council of Jewish Women.
National Council of Senior Citizens.
National Easter Seal Society.
National Education Association.
National Family Planning and Reproductive Health Association.
National Mental Health Association.
National Parenting Association.
National Perinatal Association.
National Puerto Rican Coalition, Inc.
National Safe Kids Campaign.
National Women's Law Center.
Neighbor to Neighbor.
New Orleans Bread for the World (LA).
Nome Receiving Home (AK).
North American Council on Adoptable Children (MN).
North Carolina Advocacy Institute (NC).
Oklahoma Healthy Mothers, Healthy Babies Coalition (OK).
Oklahoma Institute for Child Advocacy (OK).
Orange County Parent Child Center (VT).
Panhandle Assessment Center (TX).
Parent Action of Maryland, Inc. (MD).
Parent to Parent of Vermont (VT).
Parents Anonymous, Inc. (CA).
Parry Center for Children (OR).
Penn State University, Allentown Campus (PA).
Pennsylvania Association of Child Care Agencies (PA).
Pennsylvania Partnerships for Children (PA).

Philadelphia Citizens for Children and Youth (PA).
Planned Parenthood Federation of America.
Planned Parenthood of Palm Beach County (FL).
Presbyterian Child Advocacy Network (KY).
Preventive Services Coalition of Erie County (NY).
Priority '90s: Children and Families (MI).
Project H.O.M.E. (PA).
Public Welfare Coalition of Illinois (IL).
Redlands Christian Migrant Association (FL).
RESULTS.
Richland County Children Services (OH).
Rise, Inc. (MN).
Robins Nest, Inc. (NJ).
Same Boat Coalition (NY).
Sasha Bruce Youthwork, Inc. (DC).
Southern Regional Project on Infant Mortality.
Spina Bifida Association of America.
State Communities Aid Association (NY).
Statewide Youth Advocacy, Inc. (NY).
Support Center for Child Advocates (PA).
The Adaptive Learning Center (GA).
The Arc.
The Child Care Connection (NJ).
The Children's Alliance (WA).
The Children's Health Fund (NY).
The Coalition for American Trauma Care.
The Connecticut Alliance for Basic Human Needs (CT).
The Council for Exceptional Children.
The Episcopal Church.
The Foundation for the Future of Youth.
The Health Coalition for Children and Youth (WA).
The Kitchen, Inc. (MO).
The National Association of WIC Directors.
The Ohio Association of Child Caring Agencies (OH).
The Presbyterian Church (USA), Washington Office.
The United States Conference of Mayors.
The Urban Coalition (MN).
TransCentury (VA).
Tulsa Area Coalition on Perinatal Care Community Service Council (OK).
Ucare Minnesota (MN).
United Child Development Program (NC).
University of Vermont Department of Social Work MSW program (VT).
Unitarian Universalist Association, Washington Office.
Unitarian Universalist Service Committee.
United Cerebral Palsy Associations.
Utah Children (UT).
Vermont Center for Independent Living (VT).
Vermont Head Start Association (VT).
Voices for Illinois Children (IL).
Voices for Children in Nebraska (NE).
Washington State Child Care Resource and Referral Network (WA).
Westchester Children's Association (NY).
Wisconsin Council on Children and Families (WI).
Women Leaders Online.
Women's Committee of One Hundred.
Women's Legal Defense Fund.
World Institute on Disability (CA).
Wyoming P.A.R.E.N.T. (WY).
Youth Law Center.

OCTOBER 24, 1995.

DEAR SENATOR: On behalf of the nation's pediatricians and children's hospitals, the American Academy of Pediatrics and the National Association of Children's Hospitals urge you to make sure that regardless of how Medicaid is restructured Congress includes basic protections for the health coverage of children and adolescents.

This is the message we are seeking to bring to all members of Congress and the public in a new paid advertisement we are running this week in the national press. We are enclosing a copy for you. It outlines the protections children and adolescents need in coverage, medically necessary and preventive care, access to pediatric care, and immunizations under a restructured Medicaid program.

These kinds of protections make good sense, because children and adolescents represent over half of all recipients of Medicaid. In fact, Medicaid pays for the health care of one fourth of the nation's children and adolescents as well as one third of the country's infants. Protecting their health coverage, regardless of the state in which they live, is a low cost but high return investment not only in children's well-being today but also in the health and productivity of at least one third of the nation's future work force. Medicaid coverage for a child averages only one-eighth the cost of coverage for a senior citizen.

We were heartened by the bipartisanship of the Senate Finance Committee in addressing the need for children's coverage. It would require all states under a restructured Medicaid program to cover poor children and pregnant women. We believe most members of Congress share in this conviction.

Your vote on Medicaid legislation this year may be the single most important vote you will cast for the health of our nation's children in this decade. Please vote to protect America's most important resources: our children

Sincerely,

JOE M. SANDERS, Jr., M.D.,
Executive Director, American Academy of Pediatrics.
LAWRENCE A. MCANDREWS,
President and CEO, National Association of Children's Hospitals.

Enclosure.

HOW TO MAKE SURE THEY'RE STILL SMILING AFTER CONGRESS GETS THROUGH WITH MEDICAID.

It should go without saying that the key to having a healthy America in the future is keeping children healthy today.

Those of us who spend every moment of our working lives keeping children healthy want to say it anyway.

Because at this moment, Congress is making drastic changes to the Medicaid program, the most serious side effect of which is that the health care needs of millions of children will not be sufficiently guaranteed.

CONGRESS IS TAKING THE "AID" OUT OF MEDICAID

The Congressional block grant proposals could leave it to the States to determine who is eligible to receive benefits and what kind of benefits will be offered.

Today's system at least guarantees specific preventive health care benefits vital to the health and well-being of many children from poor and working families.

CONGRESS MUST BUILD IN CERTAIN BASIC GUARANTEES

Regardless of how Congress changes Medicaid overall, the following protections should be included:

1. Children and adolescents from low-income families must maintain guaranteed Medicaid coverage.
2. Medically necessary care, including preventive services, must not be compromised.
3. Children and adolescents must retain access to appropriately trained and certified providers of pediatric care.
4. children should be guaranteed all age appropriate immunizations.

Let's protect America's most important, most vulnerable resources: our children. Let's help keep them healthy. And smiling.

[From Consortium for Citizens with Disabilities]

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 strongly urge you not to support these proposals and to carefully reconsider how to "reform" the Medicaid program so that children and adults with disabilities and other individuals with low and very low incomes are not harmed.

The proposals reported out of the House Commerce and Senate Finance Committees make harmful, fundamental changes to the Medicaid program—a program which now is the largest source of federal and state funding for services and supports for individuals with disabilities. It has been access to critically needed health and related services and to essential community-based long term services and supports—provided through the Medicaid program—that have enabled families to stay together and children and adults with disabilities to live fuller and more productive lives in their communities.

Specific CCD concerns relate to the following issues:

While the Senate proposal maintains a guarantee of health care coverage for low income individuals with disabilities, the House proposal completely eliminates the current individual entitlement status of Medicaid for people with disabilities.

Neither the Senate or House proposals would require states to provide any specific services, except for childhood immunizations.

Medicaid is no longer an entitlement and if there is no requirement for the provision of a full range of services, people with disabilities will lose access to critical health and long term services, and supports. For people with disabilities and serious health conditions, the lack of access to health and health-related services and supports will lead to an exacerbation of existing health problems and/or disabilities, as well as the emergence of additional health problems and secondary disabilities. For people with long term care needs, the lack of Medicaid coverage will lead to the loss of services and supports that help them to live more independent lives in the community—in some cases leading to homelessness and inappropriate institutionalization. In addition, families of children with disabilities will have their economic security undermined as they try to pay for essential health and long term services. It is important to remember—especially in a nation where the number of individuals insured through their employer continues to decrease—that for many people with disabilities, Medicaid has been the only health care coverage available.

While both proposals include state level "set-asides" for certain vulnerable populations, i.e. families with pregnant women and children, elderly individuals, and low income people with disabilities under age 65, the proposed funding formula for these set-asides would mean that states could not continue to provide the full range of services and supports that they now provide for children and adults with disabilities.

States would be permitted—within these broad categories—to determine what services to provide. According to the House proposal, for each set-aside category, states

would have to spend 85 percent of the average percentage of the state's Medicaid spending from FY 1992 through FY 1994 devoted to mandatory services (what the state now must cover) for people in that category. According to the Senate proposal, for each set-aside 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 state now chooses 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 addition to the loss of the personal entitlement to specific required services and the weak funding formula, both the House and Senate proposals 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 remembers when 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 intensifying 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 public policy and the original intent behind federal oversight requirements currently attached to funding for certain Medicaid long-term services must be remembered and respected. The proposals also permit the states to 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 eviscerate a program that has allowed millions of children and adults with disabilities to live fuller and more productive lives in the community because they now have access to both acute health care and needed long term services and supports. The CCD does not support the status quo on Medicaid. We do believe, however, that there are changes to the program that can be made that will not penalize those who now benefit from the program. These include the elimination of 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 most 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 status of Medicaid to a mandated set of benefits for children and adults with disabilities must be maintained.

The CCD asserts that federal reimbursement should be maintained 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 requirements that states meet certain standards of care and continue appropriate 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 timely and appropriate access to all necessary services, supports, and providers must be ensured.

The CCD asserts 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 of 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 Center.
American Association of Spinal Cord Injury Psychologists & Social Workers.
American Association of University Affiliated Programs.
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 Director.
National Center for Learning Disabilities.
National Community Mental Healthcare Centers.
National Consortium on Physical Education and Recreation for Individuals with Disabilities.
National East Seal 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 Accrediation 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 current 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 provision 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 reforms of OBRA '87 to a statutory direction that payors of services (both federal and state) must ensure the payment of adequate rates has proven a workable mechanism and should not be repealed.

Federal 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 linkage, 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 recognize that

the ability to do so is dependent upon the provision of adequate financial resources.

Sincerely,

American Health Care Association (AHCA); American Association of Homes and Services for the Aging (AAHA); Catholic Health Association; InterHealth; Horizon CMS; 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).

NATIONAL ASSOCIATION OF COUNTIES.
Washington, DC, October 24, 1995.

DEAR SENATOR: The National Association of Counties (NACo) strongly opposes the block granting of Medicaid and the loss of a federal guarantee to benefits. Counties will be saddled with significant cost shifts as a result of capping the federal contribution to Medicaid.

We do not believe that states will find enough budgetary efficiencies without reducing eligibility. The flexibility given to states in the operation of 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. In many states, counties are required to serve individuals with no private or public health insurance. The cuts to the program will have the effect of increasing the costs of that state mandate.

Individuals will continue to have health needs, regardless of the payor source. 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. While we support the increased use of managed care and the further targeting of the disproportionate share program, we believe that provisions in the bill overall will harm many current recipients and the counties which serve them.

If you have any questions about our position, please call Tom Joseph, Associate Legislative Director, at 202/942-4230.

Sincerely,

LARRY E. NAAKE,
Executive Director.

BUREAUCRACY CREATED BY THE GOP MEDICAID PLAN

In the Medicaid debate, the GOP has stressed that offering states block grants will reduce federal and state bureaucracy. However, a review of the GOP Medicaid Plan indicates that it creates as much bureaucracy as it purports to reduce. Some of the bureaucratic initiatives included in the plan are important and necessary; however, the argument that the GOP plan reduces bureaucracy just doesn't add up. The following is a *very* conservative estimate of the total number of new bureaucratic requirements created by the GOP Medicaid plan:

Number of new requirements for each submitted Medicaid plan	32
Number of States and District of Columbia (times)	51
Total number of new requirements for all plans (=)	1,632
Additional committees, advisory panels, demonstration projects, etc. (+)	15
Total number of new bureaucratic requirements (=)	1,647

Note: The total does not include drug provider pricing reports or other federal and state drug-related reports.

Specifically, the proposal requires:

SECTION 2100

Page 2—A state plan is required for reimbursement under this bill.

The state plan must be approved by Secretary.

SECTION 2101

Page 4—State must establish performance measures to evaluate Medicaid plan.

Independent review required of state performance.

Page 5—Strategic objectives and performance goals in state plan must be updated not later than every 3 years.

SECTION 2102

Page 5—Extensive annual reports must be prepared by states and submitted to Congress.

SECTION 2103

Page 6—Every third year, each state must provide for an independent review of the state Medicaid plan.

SECTION 2104

Page 12—Each state Medicaid plan must provide a description of the process under which the plan shall be developed.

SECTION 2105

Page 13—States required to provide public notice and comment on their Medicaid plan.

Page 14—States are required to established advisory committees for the establishment and the monitoring of the Medicaid plan.

SECTION 2106

Page 16—The Secretary shall provide for the establishment of a Medicaid Task Force.

Page 16—An advisory group to the Medicaid Task Force shall be created comprised of representatives from seventeen national health care organizations.

Page 18—The task force shall report to Congress by April 1, 1997, with recommendations regarding objectives and goals for states in the implementation of a Medicaid plan.

Page 19—Creation of an Agency for Health Care Policy and Research.

SECTION 2111

Page 19—Each state Medicaid plan must meet certain Federal eligibility and benefit requirements.

SECTION 2113

Page 31—States may set up premium and cost sharing mechanism including co-payments and deductibles.

SECTION 2114

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 2115

Page 37—Each state will develop its own criteria for providing benefits and geographic coverage.

SECTION 2117

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 2121

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 proposed obligation and outlay allotments for each State.

Page 85—GAO shall report to Congress annually a report of preliminary allotments.

GAO shall submit an annual report analyzing allotments.

SECTION 2122

Page 87—Quarterly reports shall be filed by the States estimating the total sum to be expended in such quarter.

Page 90—Procedure established for disputes with respect to overpayment to the States.

Page 97—States given authority to impose health care taxes on providers.

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 2123

Page 113—Limits on payments for nonlawful aliens, abortions and assisted suicides. States must establish procedures that funds not be used for unauthorized purposes.

SECTION 2124

Page 119—Methodology for grants to be determined by HHS.

SECTION 2131

Page 119—Separate state audit required annually. Additional "verification" audit required if first audit not acceptable. Audit reports must be available to both HHS and the public. Each State must adopt fiscal control measures to insure compliance. State or private plans must provide HHS with records of any audit conducted by anyone on any provider offering services through he plan.

SECTION 2132

Page 121—Each state is required to develop separate fraud prevention procedures. Additionally, if an individual or provider is excluded due to a violation of this section, a state must file a separate notification of the violation with the appropriate state licensing board and HHS.

SECTION 2133

Page 123—States must create 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 the Secretary of HHS with documentation of these formal proceedings. HHS must notify all relevant federal agencies, providers under contract, licensing boards, State agencies, utilization and quality control peer-review organizations, State Medicaid Fraud Units, hospitals and other providers, the Attorney General, and the Comptroller General. Program to be coordinated through HHS.

SECTION 2134

Page 127—Each state required to provide a separate State Medicaid Fraud Unit. This unit must be attached to the State Attorney General or other appropriate state agency. The State must establish formal procedures for referral of fraud, patient "abuse and neglect" complaints, and overpayment cases to the State Attorney General.

SECTION 2135

Page 131—Each State must develop procedures for determining when a third-party payor is legally obligated to pay, a claim, when beneficiaries acquire the rights, when they may assign those rights, and laws that mandate coverage of children. Any denial of benefits to a child must be documented. States must also create a procedure for wages or tax return garnishment.

SECTION 2137

Page 142—Each State must develop separate "Quality Assurance Standards for Nursing Facilities," consisting of separate treatment standards, administrative policies and procedures, operational bylaws, Quality Assurance systems, resident assessment procedures, staff qualifications, and utilization review procedures. These standards are subject

to public comment before acceptance by the State legislature.

Each State must also create a nursing facility certification program, whose records must be available to the public. This program must be audited every four years.

SECTION 2138

Page 150—Requires public access to any compliance survey conducted by any state agency. Each state must create separate record-keeping requirements.

SECTION 2151

Page 151—Each state must submit separate "Part C" Medicaid plans.

SECTION 2152

Page 151—Allows for amendment of a States Medicaid plan "at any time."

SECTION 2153

Page 153—Requires HHS to "promptly" review (within 30 days) any plan or amendment submitted. Requires notice non-compliance, and a state response or revision of the plan must follow. Creates administrative hearing procedure for determination of non-compliance if requested by the state. If dissatisfied, state may appeal to the appropriate U.S. court of appeals. Any decision may be appealed to the U.S. Supreme Court.

SECTION 2173

Page 174—If a state has an Indian Health Program, the state plan must separately define who and what will be eligible.

SECTION 2175

Page 182—Requires HHS (or each state separately) to reach separate rebate agreements with each eligible drug manufacturer before reimbursement. Any exceptions must be submitted for review and approved by HHS. If a rebate agreement is in place at the time this Act is passed, the state has the burden of showing that such rebate agreement saves as much or more money as the requirements of this new Act.

Page 192—Requires each state to submit a report of the total number of covered drug units used, including form, dosage, and package size.

Page 193—Drug manufacturers must submit a report listing the "average" price of an eligible drug sold for at the beginning of a rebate period. Drug manufacturers are also required to submit a report at the end of a rebate period noting both the "average" and the "best" price the drug sold for.

Page 199—Secretary and states both have authority to resolve conflicts over rebate amount.

Page 200—Secretary or state must compute rebate formulas for each separate drug, manufacturer, and rebate agreement.

Page 207—Any State may subject any drug to a separate prior authorization program prior to filling a prescription.

Page 208—Secretary required to periodically update the list of ineligible drugs.

Page 209—Each state may set up separate formularies if approved by HHS.

Page 211—Outlines the specific requirements of a state "Prior Authorization Program."

Page 212—HCFA required to establish reimbursement limits for "therapeutically equivalent" drugs.

Page 213—Secretary must "encourage" states to establish an electronic claims processing system.

Page 214—Requires HHS to submit an annual report to the Senate Finance Committee and House Commerce Committee outlining individual and total drug costs, the impact of inflation of such costs, any significant trends in drug pricing, and the administrative costs of compliance with the drug-rebate program.

Page 224—Requires HHS to establish a "Medicaid Drug Rebate Task Force."

SECTION 7194

Page 228—Requires HHS and HCFA to develop a classification system for children with special health care needs.

Page 229—Creates a grant program for demonstration projects using the criteria developed for classifying children with special health needs. Requires these projects to submit annual and final reports to HHS.

Page 232—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 the matter at hand. I believe we are about ready to come down to the end of this and go on to the education amendment. But before we proceed, I wish to yield 1 minute to the Senator from Connecticut.

Mr. DODD. I thank our colleague from Nebraska.

Mr. President, I apologize for being tied up in the Committee on 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 in 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 and promote growth, then these 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 in effect 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 is wrong headed; I think it is extreme; I think it is unfair; and I think it is dangerous for this country's future.

I thank my colleague 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 think is ready to offer the amendment. 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 a unanimous consent request.

The PRESIDING OFFICER (Mr. BURNS). Is there objection?

Mr. ABRAHAM. Mr. President, the majority does not object. We support the 90-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 could recognize the Senator from Massachusetts.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2959

(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 Federal interest payments on subsidized student loans during the 6-month grace period in which graduates look for jobs, eliminating interest rate increases on parent (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 an 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, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. FEINSTEIN and Mrs. MURRAY, proposes an amendment numbered 2959.

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 16.

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 on the budget recommendations of our Republican friends in the U.S. Senate. 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 grant money and one-quarter for loans. The programs built on the enormous 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 War 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 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 responds to 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 great assets. Striking the increased 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 program.

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 that was made in 1993. I 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 provisions of the Finance Committee's reconciliation bill that dilute the alternative minimum tax on corporations.

The alternative minimum tax on corporations sets a minimum corporate 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 it to 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 whiplash of the Republican leadership is going to march—force the Republicans to march 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 education 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 malarkey.

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 be on the sons 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's time has expired.

Mr. KENNEDY. I yield 2 more minutes.

Again, these are the same people whose taxes will be increased under EITC, as Senator MOYNIHAN clearly pointed out when he put the chart before the U.S. Senate and the American people. We are already going to have to pay increased payments under this bill.

What do our Republican friends have against working families? They raised the EITC that goes to the low-income, working families. And now they are denying the opportunity for education for many of the sons and daughters.

Mr. President, I want to just point out that a $250 increase in the cost of college will cause roughly 20,000 fewer students from working families to enroll. Because there are almost $1,000 in additional costs to working families just in the grace-period provisions of the Republican proposal, 80,000 young people in this country will not go to college because of the increased burden that their families will not be able to pay.

Now, there will be a time when someone says, "This is really a very minor slap on the wrist for these families." They will point out, "Look, you are only talking about $900 for the grace period, only $500 more under the PLUS loans, and only $25 under the institutional loans."

Mr. President, that all adds up. In my State of Massachusetts, working families will have to pay more than $200 million in additional costs. That is wrong. It is a transfer of wealth from working families to the already wealthy individuals in our country. Therefore, I hope that this amendment is agreed to. It is a responsible amendment. We have debated this issue many times and we have said that we believe that education is fundamental to the future of America and young Americans. Why should we dampen, and in many instances extinguish, the hopes and dreams of the sons and daughters of working families?

That is the choice here. We can strike the alternative minimum tax or we can dock the sons and daughters of working families.

I yield 5 minutes to 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 PRESIDING OFFICER (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 increase on the interest rate in 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 at 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 could well increase to $2,800. 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.

Third, 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 the 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. KENNEDY. 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.

Very simply, what we are talking about here is $10.8 billion that is to be reduced or eliminated out of the funds that will otherwise be made available to students over the next 7 years, students who want to go to college and who do not have the financial means with which to go to college.

That $10.8 billion is presented by the Republican majority as being fairly shared. We are going to try to charge some of that to the loan industry and some of that to the students and families themselves.

I have a chart here, Mr. President, which I think makes the point pretty clearly that the cost, that $10.8 billion, is not fairly shared. What this chart shows is that something like 30 percent of this entire $10.8 billion, $3.1 billion specifically, will be additional costs to the loan industry; 70 percent of the entire cut in education is costs to students and their families. That is $7.6 billion over 7 years.

Let me talk about some of the specific things that we are doing to increase the costs to students and families during that time, because some of it is precedent setting and, in my view, it is a very bad precedent and reflects very badly on our country.

One which has been referred to by both the Senator from Massachusetts and the Senator from Rhode Island is that we are starting, for the first time, to charge interest on the loan from the day of graduation. That may seem like a small item and, in some larger global sense, it may be, but it signifies something about what the Congress is about in this reconciliation bill.

Always before, the idea was when students graduated from college, we would give them a 6-month grace period in which to get a job, in which to begin to receive regular monthly paychecks, before they were charged the interest on that loan.

But we are eliminating that in this legislation. Here the idea is that we can pick up $2.7 billion over the next 7 years by eliminating that grace period and starting to charge that interest from the day they graduate. I think that is a shortsighted, mistaken and wrong policy decision.

A second item that I particularly want to focus on that I think is perhaps even a worse precedent is this whole idea of charging a tax to schools that want to make a student loan. In my State, the schools that are making Federal student loans are generally schools that are trying to provide education to moderate-income families and students. They would be charged, under this bill, .85 percent, nearly 1 percent of the value of the loan, at the time the loan is originated.

When I bought a house, I remember that they charged me a loan origination fee. You always shop around to see where can you get the fewest 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 and, of course, that 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 for a student loan, 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 pick up $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 30 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. This amendment strikes the Republican cut of $2.7 billion for the 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 .85-percent fee on new student loans. It strikes the $2 billion Republicans would save by introducing this new loan fee. The Republican plan 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 rise in interest rates families pay 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; at New Mexico State University, about 9,000; at 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 not go. Graduating from college is no 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 Federal Government's commitment to education; the Kennedy-Simon amendment renews that commitment to making 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.

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 or two 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 discussions going on 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 on both sides of the aisle—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 of 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 volume of loans available 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 will have those loans available. We are not contracting the size of the loan volume. I believe it will be in the vicinity of $26 billion annually under this package.

In addition, I point out concerns that have been raised hear 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, once again, 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 they graduate 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 just come down insofar as what 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, I believe far more effectively, help students to finance their college education 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 here in the reconciliation bill, there also is 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-class families in this country pay.

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 important, 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 how it affects home. 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 their exceptionally hard work to try to balance and make it fair. Tax relief for families is the biggest part of this tax relief provision. It goes to families. Now, we hear talk on the other side of the aisle this morning about a cutback in programs. Why do you think there are tax cuts in here? Because it allows families to make the decision on how they want to spend their money, not how it is spent here in Washington, DC; it is for them who live in the hinterlands. There is tax relief for senior citizens and small businesses.

When you look at my State of Montana, that is going right down the line where we need a little relief. And we close some loopholes for corporations. So they did exceptional work on this. We have heard about the tax break for the rich, corporate welfare, and all of this, those loopholes for the corporations. They have been closed. Frankly, I have not seen a lot of that. This tax package, as a total revenue cost over a 7-year budget, is around $245 billion. However the cost is reduced by elimination of those corporate loopholes, which saves the Government a little over $21 billion over 7 years. That net cost makes us back to $224 billion. We can get bogged down in figures. I know how easy that is.

We have to keep reminding America through this whole debate that the single largest revenue item in this 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 real debate starts. Nobody is debating public safety here or doing some of the things for 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 cost of the package, and are 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, and they pay taxes on them.

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. Imagine what that would 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 make 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 to protect 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 again.

Hard-working families—the only thing they have on these 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 provide. I wholeheartedly support 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 out that Wheaties cost $3.46 a pound. Do you realize that we are only getting $2.50 a bushel for a bushel of wheat that has 60 pounds of wheat in it?

They wonder—it is 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 for two reasons. I believe any death tax is on its face unfair. If we are going to keep these small businesses, these 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 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 assets of the performing two tax computations to determine that they do not fall into the alternative minimum tax bucket.

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 people 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 our local communities.

That is what this debate is all about—where the power is, the power of the purse string. With the tax credits and some 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 in, 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.

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 for reasons I will get into in 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 on 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 by the U.S. Congress. The salary of the chief executive officer of Sallie Mae, 3 years ago was $2.1 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 $627,000. 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, brazen. 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 heard a lot of talk about unfunded mandates around here. This is an unfunded mandate you are imposing on colleges and universities. Iowa State University, for example, testified they have been able to take four people who used to work in student loans because of the all the paperwork and everything, and have them do other things. And they have been able to cancel some of their computers that they have, for $400 a month.

If I may have 1 more minute?

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

Mr. SIMON. It is very, very clear what the public interest is. "Banks Cash In, Taxpayers Lose on Loan Programs," USA Today says.

Government employees—we hear a lot, let us simplify. This is what we are told: 500 employees direct lending; 2,500 Government employees. That does count the guaranty agencies.

Then here is what CBO says about the 20 percent cap that is in here right now: Under 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. GORTON. Mr. President, I believe that it is important constantly, during the course of this debate, to return to fundamental principles, to the broad policy goals which we as a nation ought to seek for the betterment of our society and for a brighter future for those who follow us. In returning to those fundamental principles, there is 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 unauthorized to saddle posterity 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 included in it at least lip service to the concept of a balanced budget. But, of course, there are three ways to that goal, or at least 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 actuates 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 laws and 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 also 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 right than previous Presidents have been. I did this so we could argue about priorities with the same set of numbers. I did this so that no one could say I was estimating my way out of this difficulty. I did this because, if we can agree together on the most prudent revenues 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 said. In the last 12 years, because there were differences over the revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. This is tightening the reins on Democrats as well as Republicans. Let us at least argue about the same set of numbers so the American people will think we are shooting straight with them.

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 terms, 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 be higher, and without 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. And it lost by a vote of 96 to nothing. The other side of this aisle, quite properly, rejects that approach. But it also rejects the approach of any significant changes. So, at this moment, nominally 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 litany 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 actually change the laws appropriately interest rates will be sufficiently lower and economic growth will be sufficiently higher so that the Federal Treasury will be $170 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

pockets of the American people because 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 we go through this process, if we 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 get a decent, sound education so that they can raise their families and so that they can 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 Medicare cuts. There is an $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 expense for families who use the 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: a direct tax on 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 falls 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 to be 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 best 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.

Between the baby 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 hours to squeeze, and if I were to lose $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 tamper with, along comes another. If it isn't school lunches or aid to families with minor children, or programs that give disadvantaged preschoolers 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 thousands dollars could be lost, according to John Parker, director of financial planning. Some 60 percent of Drake students get 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 the GOP plans to take $10.4 billion out of student-loan entitlement programs and apply it to deficit reduction. The legislation targets Stafford loans—private loans secured by 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 90 percent of Drake law students and 40 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, such as the Perkins loan. That cut alone would knock off aid to 90 Drake students.

Some proposals that might seem benign can cut quite deep. One would force student recipients of subsidized Stafford loans (those given to the highest-needs students) to start accruing interest charges immediately on graduation, instead of after the six-month grace period they now have. The added debt could be just enough to derail Kniech's plans to join the Peace Corps. "This hits at high-needs students harder than anybody else," says Parker.

There's also a proposal to raise both the ceiling and floor on the major federal grant program, 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 set her sights 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 like much. And Drake Republicans have countered with flyers pointing to the programs which aren't slated for actual cuts (but contain no increases for inflation), or the growth in funding of the Pell grant program. But every cut matters to students struggling to stay afloat. "There are students at Drake who, if they had to come up with another $50 they just flat out couldn't do it," Parker says. And there's the precedent. As senior Tanya Beer put it, "I think we're moving more toward education for the privileged rather than education as a right."

The financial-aid story offers an interesting juxtaposition of GOP fact and rhetoric. While the cheerleaders of congressional Republicans like to rail about elitist liberals, the scheme unfolding in Congress is built around an unparalleled elitism, deliberately cutting off avenues for advancement for those starting out at a disadvantage, even as they are admonished to stay in school and work harder.

So excuse Robin Kniech if the politicians' lectures about working her way up ring a little hollow. She's keeping her end of the bargain, and a 3.8 grade-point average. She just doesn't have anything left to give up.

Mr. HARKIN. It is entitled "The Reality of Cutting Student Aid."

I will read a couple of items from it:

If you want to talk to Robin Kniech, you'd best 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.

Between the baby 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.

"I don't have any financial support from my parents," says Kniech. "I don't have any more hours to squeeze, and if I were to lose $300 in aid, I probably wouldn't be in school."

John Parker, director of financial planning, said that 60 percent of Drake students get need-based assistance.

"There are students at Drake who, if they had to come up with another $50, just could not, flatout could not, do it," Parker said.

I think I will end on this note, a good note. The writer of the article said:

So excuse Robin Kniech if the politicians' lectures about working her way up ring a little hollow. She's keeping her end of the bargain, and a 3.8 grade-point average. She just doesn't have anything left to give.

Mr. President, here is what is happening at one of our regent universities, the University of Northern Iowa, the smallest of our three state universities. 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 just piles more 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- and low-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.

Who yields time?

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 in the context of a huge budget, some may say what is $7.6 billion in all of this? 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 $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, higher education, that while these numbers of $90, $100, $200, $2,000, or $2,700 do not seem 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 for 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 could have saved $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, $7 billion of 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 best-prepared 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 people making in excess 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 go to people earning a quarter 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 our public higher education institutions. Cannot 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 adoption of the amendment.

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

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

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 statements 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 all of us—I happen to have four kids, two of whom are in higher education 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 proposal before us 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. But 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 heck of a deal it is 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 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 not that unheard 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 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, $5,000, 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 $20,000? Well, they get an EIC of $832. With two children, they are presently 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 reduces their tax deduction so they get a higher EIC.

What about a family that, say, 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 $171 and pay no income tax. That is over a $1,000 improvement for that family. And actually every family beyond here will receive 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 propose is targeted at families, and families can decide how to spend that money. And people with children 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 have heard a lot of rhetoric 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 familiar 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 about 11 o'clock and said: I am kind of embarrassed because 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 millionaire. 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 $34,600. That may be the majority of people 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 curb the growth. Right 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 are receiving this benefit that 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 be responsive. Let us be helpful. 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. But what happens in the outyears? 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 sincere. We mean 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 do it 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 to make us do it." And 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 I will tell my colleagues, we cannot 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 don't 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.

"Don't cut 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 then 9 percent. 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 they are figuring out ways to make it 70 percent Federal Government, 30 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 I

compliment my colleagues for the proposal we have before us today. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, may I inquire as to how much time is left?

The PRESIDING OFFICER. The Senator from Michigan has 8 minutes 40 seconds.

Mr. NICKLES. Will the Senator yield me——

I ask unanimous consent. Mr. President, to have printed in the RECORD several charts and other material.

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

AMERICAN FAMILIES BETTER OFF TOMORROW THAN TODAY UNDER SENATE GOP BILL

AGI=Earned Income	Today		Senate GOP Bill—1996	
	EIC check from Uncle Sam	Tax check to Uncle Sam	EIC check from Uncle Sam	Tax check to Uncle Sam
Married with Two Children				
$5,000	$1,800	0	$1,800	0
$10,000	3,110	0	3,208	0
$15,000	2,360	0	2,488	0
$20,000	832	0	1,429	0
$25,000	0	$929	171	0
$30,000	0	2,018	0	$950
$40,000	0	3,518	0	2,450
$50,000	0	5,018	0	3,950
Married with One Child				
$5,000	$1,700	0	$1,700	0
$10,000	2,094	0	2,156	0
$15,000	1,359	0	1,525	0
$20,000	0	$190	266	0
$25,000	0	1,643	0	$1,083
$30,000	0	2,393	0	1,833
$40,000	0	3,893	0	3,333
$50,000	0	5,393	0	4,833
Single with Two Children				
$5,000	$1,800	0	$1,800	0

AMERICAN FAMILIES BETTER OFF TOMORROW THAN TODAY UNDER SENATE GOP BILL—Continued

AGI=Earned Income	Today		Senate GOP Bill—1996	
	EIC check from Uncle Sam	Tax check to Uncle Sam	EIC check from Uncle Sam	Tax check to Uncle Sam
$10,000	3,110	0	3,208	0
$15,000	2,098	0	2,488	0
$20,000	337	0	1,429	0
$25,000	0	$1,424	0	$347
$30,000	0	2,513	0	1,468
$40,000	0	4,013	0	2,968
$50,000	0	5,513	0	4,468
Single with One Child				
$5,000	$1,700	0	$1,700	0
$10,000	2,094	0	2,156	0
$15,000	864	0	1,425	0
$20,000	0	$685	0	$252
$25,000	0	2,138	0	1,600
$30,000	0	2,888	0	2,350
$40,000	0	4,388	0	3,850
$50,000	0	5,888	0	5,350

85urce: Joint Committee on Taxation.

EARNED INCOME TAX CREDIT

[Historical and current law estimates]

Calendar year	Total cost (billions)	Percent growth	Outlay cost (billions)	Percent growth	Revenue cost (billions)	Percent growth	Number of family beneficiaries	Percent growth	Average credit	Percent growth
1975	1.3		0.9		0.4		6,215,000		$201	
1976	1.3	4	.9	−1	.4	16	6,473,000	4	200	0
1977	1.1	−13	.9	−1	.2	−39	5,627,000	−13	200	0
1978	1.0	−7	.8	−9	.2	0	5,192,000	−8	202	1
1979	2.1	96	1.4	74	.7	166	7,135,000	37	288	43
1980	2.0	−3	1.4	−2	.6	−6	6,954,000	−3	286	−1
1981	1.9	−4	1.3	−7	.6	3	6,717,000	−3	285	0
1982	1.8	−7	1.2	−4	.6	−13	6,395,000	−5	278	−2
1983	1.8	1	1.3	5	.5	−8	7,368,000	15	224	−19
1984	1.6	−9	1.2	−10	.5	−6	6,376,000	−13	257	15
1985	2.1	27	1.5	29	.6	24	7,432,000	17	281	9
1986	2.0	−4	1.5	−1	.5	−10	7,156,000	−4	281	0
1987	3.4	69	2.9	98	.5	−13	8,738,000	22	450	60
1988	5.9	74	4.3	45	1.6	256	11,148,000	28	529	18
1989	6.6	12	4.6	9	2.0	20	11,696,000	5	564	7
1990	6.9	5	5.3	14	1.6	−17	12,612,000	8	549	−3
1991	10.6	53	7.8	48	2.7	69	13,105,000	4	808	47
1992	13.0	23	10.0	27	3.1	12	14,097,000	8	926	15
1993	15.5	19	12.0	21	3.5	14	15,117,000	7	945	2
1994	19.6	26	16.5	38	3.1	−12	18,059,000	19	1,088	15
1995	23.7	20	20.2	22	3.5	13	18,425,000	2	1,265	16
1996	25.8	9	22.0	9	3.8	10	18,716,000	2	1,380	9
1997	26.9	4	22.9	4	4.0	5	18,907,000	1	1,425	3
1998	28.0	4	23.8	4	4.2	4	19,104,000	1	1,473	3
1999	29.3	5	24.9	4	4.4	5	19,369,000	1	1,519	3
2000	30.5	4	25.6	3	4.8	10	19,638,000	1	1,569	3
2001	31.7	4	26.9	5	4.8	0	21,200,000	8	1,639	4
2002	33.1	4	28.0	4	5.1	5	21,400,000	1	1,687	3

Source: Joint Committee on Taxation: Provided by Senator Don Nickles, 10/20/95.

EARNED INCOME TAX CREDIT

[Two or more children]

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Zero credit income
		Historical			
1976	10.00	$400	$4,000	$4,000	$8,000
1977	10.00	400	4,000	4,000	8,000
1978	10.00	400	4,000	4,000	8,000
1979	10.00	500	5,000	6,000	10,000
1980	10.00	500	5,000	6,000	10,000
1981	10.00	500	5,000	6,000	10,000
1982	10.00	500	5,000	6,000	10,000
1983	10.00	500	5,000	6,000	10,000
1984	10.00	500	5,000	6,000	10,000
1985	11.00	550	5,000	6,500	11,000
1986	11.00	550	5,000	6,500	11,000
1987	14.00	851	6,080	6,920	15,432
1988	14.00	874	6,240	9,840	18,576
1989	14.00	910	6,500	10,240	19,340
1990	14.00	953	6,810	10,730	20,264
1991	17.30	1,235	7,140	11,250	21,250
1992	18.40	1,384	7,520	11,840	22,370
1993	19.50	1,511	7,750	12,220	23,049
1994	30.00	2,528	8,425	11,000	25,296
1995	36.00	3,110	8,640	11,290	26,673
		Current Law			
1996	40.00	3,564	8,910	11,630	28,553
1997	40.00	3,680	9,200	12,010	29,484
1998	40.00	3,804	9,510	12,420	30,483
1999	40.00	3,932	9,830	12,840	31,510
2000	40.00	4,058	10,140	13,240	32,499
2001	40.00	4,184	10,460	13,660	33,527
2002	40.00	4,320	10,800	14,100	34,613
		Senate Reforms			
1996	36.00	3,208	8,910	11,630	26,731
1997	36.00	3,312	9,200	12,010	27,111
1998	36.00	3,424	9,510	12,420	27,521
1999	36.00	3,539	9,830	12,840	27,941
2000	36.00	3,650	10,140	13,240	28,341

EARNED INCOME TAX CREDIT—Continued

[Two or more children]

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Zero credit income
2001	36.00	3,766	10,460	13,660	28,761
2002	36.00	3,888	10,800	14,100	29,201

Source: Joint Committee on Taxation: Provided by Senator Don Nickles, 10/20/95.

EARNED INCOME TAX CREDIT

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Phaseout income
		ONE CHILD			
		Historical			
1976	10.00	$400	$4,000	$4,000	$8,000
1977	10.00	400	4,000	4,000	8,000
1978	10.00	400	4,000	4,000	8,000
1979	10.00	500	5,000	6,000	10,000
1980	10.00	500	5,000	6,000	10,000
1981	10.00	500	5,000	6,000	10,000
1982	10.00	500	5,000	6,000	10,000
1983	10.00	500	5,000	6,000	10,000
1984	10.00	500	5,000	6,000	10,000
1985	11.00	550	5,000	6,500	11,000
1986	11.00	550	5,000	6,500	11,000
1987	14.00	851	6,080	6,920	15,432
1988	14.00	874	6,240	9,840	18,576
1989	14.00	910	6,500	10,240	19,340
1990	14.00	953	6,810	10,730	20,264
1991	16.70	1,192	7,140	11,250	21,250
1992	17.60	1,324	7,520	11,840	22,370
1993	18.50	1,434	7,750	12,200	23,054
1994	26.30	2,038	7,750	11,000	23,755

EARNED INCOME TAX CREDIT—Continued

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Phaseout income
1995	34.00	2,094	6,160	11,290	24,396
		Current Law			
1996	34.00	2,156	6,340	11,630	25,119
1997	34.00	2,227	6,550	12,010	25,946
1998	34.00	2,305	6,780	12,420	26,846
1999	34.00	2,380	7,000	12,840	27,734
2000	34.00	2,455	7,220	13,240	28,602
2001	34.00	2,533	7,450	13,660	29,511
2002	34.00	2,615	7,690	14,100	30,462
		Senate Reforms			
1996	34.00	2,156	6,340	11,630	23,321
1997	34.00	2,227	6,550	12,010	23,611
1998	34.00	2,305	6,780	12,420	24,021
1999	34.00	2,380	7,000	12,840	24,441
2000	34.00	2,455	7,220	13,240	24,841
2001	34.00	2,533	7,450	13,660	25,261
2002	34.00	2,615	7,690	14,100	25,701
		NO CHILDREN			
		Current Law			
1976	n/a	n/a	n/a	n/a	n/a
1977	n/a	n/a	n/a	n/a	n/a
1978	n/a	n/a	n/a	n/a	n/a
1979	n/a	n/a	n/a	n/a	n/a
1980	n/a	n/a	n/a	n/a	n/a
1981	n/a	n/a	n/a	n/a	n/a
1982	n/a	n/a	n/a	n/a	n/a
1983	n/a	n/a	n/a	n/a	n/a
1984	n/a	n/a	n/a	n/a	n/a
1985	n/a	n/a	n/a	n/a	n/a
1986	n/a	n/a	n/a	n/a	n/a
1987	n/a	n/a	n/a	n/a	n/a
1988	n/a	n/a	n/a	n/a	n/a
1989	n/a	n/a	n/a	n/a	n/a
1990	n/a	n/a	n/a	n/a	n/a
1991	n/a	n/a	n/a	n/a	n/a
1992	n/a	n/a	n/a	n/a	n/a

EARNED INCOME TAX CREDIT —Continued

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Phaseout income
1993	n/a	n/a	n/a	n/a	n/a
1994	7.65	306	4,000	5,000	9,000
1995	7.65	314	4,100	5,130	9,230
1996	7.65	324	4,230	5,290	9,520
1997	7.65	334	4,370	5,460	9,830
1998	7.65	346	4,520	5,650	10,170
1999	7.65	357	4,670	5,830	10,500
2000	7.65	369	4,820	6,020	10,840
2001	7.65	380	4,970	6,210	11,180
2002	7.65	392	5,130	6,410	11,540
Senate Reforms					
1996	0.00	0	n/a	n/a	n/a
1997	0.00	0	n/a	n/a	n/a
1998	0.00	0	n/a	n/a	n/a
1999	0.00	0	n/a	n/a	n/a
2000	0.00	0	n/a	n/a	n/a
2001	0.00	0	n/a	n/a	n/a
2002	0.00	0	n/a	n/a	n/a

Source: Joint Committee on Taxation: Provided by Senator Don Nickles, 10/20/95.

[From the U.S. Senate—Republican Policy Committee]

To: Budget and Tax L.A.'s.
From: J.T. Young.
Re: Earned Income Tax Credit.

Once again we bring to your attention a piece run by today's Washington Post that refutes the shrill political posturing of the White House.

(By James K. Glassman)

A PROGRAM GONE BONKERS

The road to a $5 trillion national debt is paved with good intentions.

Look at the Earned Income Tax Credit (EITC). Launched by Gerald Ford, lauded by Ronald Reagan, expanded by George Bush and Bill Clinton, it's based on welfare principles that even a Republican (or a professed New Democrat) can love. The only problem is that, like many other good ideas in Washington, it's gotten completely out of hand.

Currently, the EITC is the fastest-growing program in the federal budget. It will cost the Treasury $24 billion this year, up from less than $2 billion 10 years ago.

In their giant reconciliation bill—the final budget measure of the year—Republicans are trying to restrain this growth. Under the Senate version, EITC costs will rise to $32 billion in 2002. In the budget language of Washington, that's a cut. In any other language it's an increase—although not so large as projected under the current law, which has costs rising to $36 billion by 2002.

The EITC is a sort of negative income tax. If you fall into a certain earnings bracket, you don't pay the government; the government pays you.

The idea of the EITC is to put more money in the pockets of low-income working families. If you don't work, you don't qualify. Since the benefits are paid in cash and the rules are simple, the Internal Revenue Service can administer the EITC easily and cheaply.

Believers in the free market like the notion that the EITC doesn't force recipients to use funds for a particular purpose like other federal programs (housing, food stamps). Instead, it gives them money and lets them make their own choices.

The EITC is not only the fastest-growing entitlement program, it's the broadest. In 1986 some 7 million families were covered by the EITC, and the average-outlay by the government was $281. This year 18 million families are covered at an average of $1,265. In 1986 the maximum credit taxpayer could receive was $550; today, it's $3,111.

In Mississippi, a whopping 39 percent of families receive the EITC; in Texas, 26 percent; California, 22 percent. With this kind of penetration, the EITC follows a welfare tradition invented by Franklin Roosevelt: To keep a program alive, make sure money flows not just to the poor but to the middle class. That's been the key to success for Social Security, Medicare, student loans and farm subsidies.

The EITC was begun as a modest program to help offset the burden of payroll taxes on the poor and, through its unique structure, to encourage them to work more. But the philosophy soon became: "Hey, if a little bit is good, then more is better," says Bruce Bartlett, an economist who served in the Bush Treasury Department.

Today, the EITC is enjoyed by families making as much as $26,672 a year, and that doesn't include outside income. 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 $30,200—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 scheme. New IRS figures show that in 1993 the top 5 percent of American earners paid 47 percent of the federal income taxes, up from 37 percent in 1981. Meanwhile, the bottom 50 percent of earners—thanks in large measure to the EITC—paid 5 percent of the taxes.

The EITC, in other words, has created a veritable tax holiday for about half the families in America.

Many would say that's fair. But there's another question raised by the EITC: Does it really encourage work? There's doubt.

For 1996, families with two or more children will earn credits of 40 percent of their income until they reach earnings of $8,910 annually. Then, they max out at a credit (in nearly all cases, a cash payment) of $3,564. So far, so good. Clearly, there's a big incentive to work, since a dollar paid on the job becomes $1.40 in the pocket (minus modest payroll taxes).

If you earn between $8,910 and $11,630, you still receive the maximum credit. Then the disincentive begins—you start losing 21 cents of credits for every additional dollar you earn. When your income reaches $28,533, your credits hit zero.

Again, this sounds fair. But the problem is that the EITC forces lower-income Americans to face marginal tax rates that are higher than those faced by the richest Americans.

As Bartlett wrote recently in a brief for the National Center for Policy Analysis: "Families with incomes between $11,000 and $26,000 are being taxed at the rate of 60 percent on each additional dollar earned. . . . This total tax rate includes federal, state and local taxes plus the reduction in the EITC."

And these high marginal taxes definitely discourage work. Economist Edgar Browning of Texas A&M reported in the National Tax journal that nearly half of all families receiving the EITC has less income than they would have had without the tax credit—because the credit enticed them to work less. And a University of Wisconsin study found that "on balance the EITC reduces the total hours worked."

Is there a solution to the EITC conundrum? One answer is to remove the phase-out of benefits: Simply give all taxpayers an extra 40 percent credit for the first $10,000 or so of income. But that would be hugely expensive. Another answer is to kill the EITC entirely. But that would be politically impossible.

The third course is to try to restrain a program gone bonkers. That's what the Republicans are doing. At the same time, however, they should admit that the EITC isn't quite so glorious as they once thought. Maybe luring people out of poverty is something that government just can't do.

Ms. MIKULSKI. Mr. President, I must oppose the reconciliation bill we consider today because it impacts on parents, students, and families in ways they cannot afford; that is why I support and cosponsor Senator KENNEDY's amendment to strike the student loan provisions in this bill that impose higher college costs on students and working families.

Mr. President, the Labor Committee's proposal to save $10.85 billion through changes in the Federal Student Loan Program is simply unacceptable. It strikes a blow at the Federal Government's role in providing an opportunity structure for our Nation's youth. It threatens the future economic opportunity for young people who are today's students and tomorrow's work force, and it rejects help to those who practice self-help.

The Labor Committee's reconciliation proposal is another strike at this Nation's opportunity structure. The Republicans want to levy on new tax on colleges and universities. The Republicans want colleges to pay a .85 percent tax on their total student loan volume. That is outrageous.

It does not make a difference whether that tax is .85 percent or 2 percent as originally proposed by committee Republicans. A tax is a tax. Colleges and universities will still have to pay a new tax to the Federal Government every year.

Mr. President, colleges and universities all across my State of Maryland are adamantly opposed to this new tax.

This new tax means that the University of Maryland in College Park will have to pay approximately $255,000 in taxes on its student loan volume each year. The University of Maryland in Baltimore will have to pay approximately $180,000.

Private independent colleges will be especially hard hit. These colleges do not get substantial State financial support. This results in higher student loan volume. So, Loyola College in Baltimore will have to pay approximately $95,000 to the Federal Government.

It means that Johns Hopkins University will have to pay about $204,000 and Western Maryland College will pay about $25,000 in taxes on student loans each year.

Where will colleges get this money? They may be forced to pass on this new tax burden to students in the form of increased tuition, reduction in scholarships, or elimination of student services or programs.

College tuition has already skyrocketed. Our undergraduate students borrow the maximum of $17,125 a year just to be able to afford a college education, to have access to increased opportunities and to achieve the American dream. But this reconciliation bill will leave some students out in the cold.

This is unacceptable. It is not only a tax on colleges, but a tax on opportunity. Students in this country are

told every day—do well, work hard, get a good education and you will be rewarded. But this kind of tax sends the wrong message to students trying to get ahead and trying to get ready for the future.

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 that parents will pay on loans and increases the overall cap on that interest.

Mr. President, promises made must be promises kept. By cutting student loans, we are cutting 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, 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 alternate 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 hard it is for the Government to 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 book every day and every semester. It should be a priority for this Congress.

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. I believe we should give people 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. HOLLINGS. 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 8 for 1 on 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 have 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. Everyone does not pay. Students—particularly low-income students—are asked to pay $10.8 billion more. But others—particularly those who can pay for college out of their pockets—get new tax breaks. These tax breaks and increased spending in other parts of the budget are 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 to them than new tax breaks.

Mr. President, these 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 pander for the next election and put the budget out of balance in the long run. I urge my colleagues to support the Kennedy amendment to maintain our investment in education.

Mr. AKAKA Mr. President, I rise to express my deep concern about cuts in education programs included in the reconciliation bill.

The bill before us cuts $10.8 billion from the student loan program. These proposals include a 1 percent fee hike in PLUS loans, elimination of the grace period for recent graduates, 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 difficult to come up with a more destructive list of proposals. Plain and simple, these education cuts are irresponsible.

Mr. President, the 1 percent fee hike for PLUS loans is regressive and could add $5,000 to a family's indebtedness for a college education. This may not mean much, but to a family struggling to make it on $25,000 a year, it could deprive a student of a college education. Moreover, this measure discriminates against families who haven't achieved the dream of home ownership, and who cannot take out home equity loans to finance college.

Eliminating the grace period for recent graduates is similarly ill-conceived. This provision would saddle graduates with additional financial burden at the most critical time in their careers. 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.

The proposal to cap the direct loan program at 20 percent of the total student loan volume is misguided in three respects. First and foremost, it would discourage additional schools from participating in the program 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, secondary markets, and guaranty agencies. Direct loans have been a money 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, or are forced to choose, 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 how proponents of free enterprise explain this clearly anticompetitive initiative.

Mr. President, the last major GOP education initiative is the proposed 0.85

percent tax on schools. Like the other proposals, this is a regressive inititaive that will discourage schools from participating in the direct loan program, 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 wealthier 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—they constitute 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 work force 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 fortunate enough 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 measure, will 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 cutbacks in education. Our 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's oldest republic.

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 knowledge by 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 our 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?

Could I ask the Senator from Michigan how much time will be yielded to the Senator from Idaho?

Mr. ABRAHAM. The remainder of our 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 colleague 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 depended 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 $10.8 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 student loan 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 without 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 put 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 deficits or defaults. It simply provides a new college graduate a few months to find a job and begin the process of becoming a contributing member of our society.

Some say this is a minor provision, appreciated by few students. I will tell you, at the University of Washington, in Seattle alone, 12,000 students will feel the impact of this grace period. It means $2.4 million to those students.

Finally, Mr. President, let us discuss a program that is working. The direct loan program is producing enormous benefits for all. In a recent survey, 112 campuses using the direct lending program were polled, and 90 percent reported satisfaction with the program.

During this academic year more than 1,350 schools are making borrowing easier for their students through the direct loan program. It is praised by students and college presidents alike for its speed, efficiency, and lack of bureaucracy. Why are we capping this success at 20 percent of total loan volume when we know it works? Let us give direct lending a chance to work for our schools and its students.

Mr. President, these cuts in our student loan programs are not economic savings. They are only going to shortchange our country's future. When we

sacrifice our next work force for the sake of quick economic savings, we all mortgage our economic prosperity. The cuts in student loans are a direct impact to 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.

Mr. President, I yield back my time to the Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. I yield the remainder of our time to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank my colleague from Michigan for yielding.

Mr. President, I find that the debate that is currently going on on the floor interesting but not balanced. And I say that because, while we talk about our children and the great compassion that I think this Senate and this Congress has always demonstrated toward young people in need, there is another side to the story that must be told if we are to speak of balance.

There is no question that we want as many of our young people as well educated as they can possibly become. We should encourage that kind of an environment. Clearly, the student loan program that is embodied within this package today will continue to educate as many as are currently being educated with the flexibility of growth to include more. While it changes the parameters of the obligation, it would be grossly unfair for anybody to portray that we are stepping away from or stepping back from our commitment to disadvantaged young people today seeking higher education.

What is glaringly absent from the debate on the other side is the rest of the story. I will tell you that having an education, having a degree in an economy that does not create a job and hire you is the greatest of tragedies.

The budget that we are seeking to bring about, in promises kept to the American people, is a budget in balance, and there is not an economist in this country today that will disagree that a budget imbalance causes the economy of this country to be more productive, more job creating, having the ability to pay higher wages and to hire the master's degrees and the doctorate degrees that oftentimes today go wanting and in their search for a job cannot find themselves able to pay the student loan.

The future of our children, Mr. President, and our grandchildren does not depend on a student loan. It depends on the economy of this country and the vitality of that economy that produces the student loans that creates the jobs that offers the future and the opportunity.

Most economists agree today that our current debt structure creates a 2-percent drag on our economy, and that 2-percent drag costs us hundreds of thousands of high-paying jobs annually as we work to increasingly compete in a world marketplace.

I find it absolutely amazing that this President will argue a $200 billion deficit and a debt that heads toward $5 trillion and says that that is growth and that is opportunity and that is going to create a productive economy.

Let me tell you what that kind of $200 billion deficit does to the average child of today, the college student of tomorrow, the job seeker in the future.

The average child today will pay $5,000 additional taxes over their lifetime with that $200 billion deficit. The Clinton budget projects deficits of that range out through the year 2000, and that alone adds up to an additional tax burden of $40,000 in the lifetime of that child. Those are statistics from the National Taxpayers Union.

Mr. President, in my opinion, that is the future. This Senator is going to vote for a dynamic program of student aid, but he is not going to deny that student the same opportunity that that student's parents had in their lifetime: to seek a better life, to have a job, to be productive, to be creative. That is our reality, and that is what we promise the American people.

So I suggest to all of us today that this really is a debate about the child and the child's future and his or her opportunity to be productive, to have a rewarding experience in their life, because just like the security of Medicare and just like the security of Social Security, they are all bound inextricably to the productivity of an economy. Not debt, not layoffs, not a sluggish economy that is not able to get up to speed and to be competitive in a world marketplace.

I am absolutely amazed that we cannot strike that balance or that we have to struggle so hard to argue that a balanced budget makes sense. Somehow this deficit syndrome that the President has caught himself in and is unable to escape—while he argued yesterday, "Look at the productivity, look what I have done," what he failed to say, "In the outyears, I am going to have to ask the American people for another large tax increase, because while my tax increase of a year ago has forced the deficit down, the Government has not changed its spending habits. And every program that I offer in my budget," i.e., the President, "I want more spending and more Government and more growth in the most nonproductive sector of our society."

The American people last November said it very clearly. They said, "Sorry, Mr. President, you're wrong: you've got to change and our Government has to change and we have to make sense of something, because we sense our vitality is slipping away, our ability to make a living is slipping away."

I do not dispute what the other side is saying about the less ability of the American family to pay for their child's education, but have they ever stopped to ask why there is less ability, why can the family of today not provide as much for the child as the family of 20 or 30 years ago? There is an obvious reason. They cannot provide the lifestyle. The economy has been dragged down by a debt structure and a Government that consumes ever greater a proportion of the gross national product of our country in the most nonproductive of ways.

I do not dispute the need for Government, but I do dispute its size, I do dispute the debt, I do dispute the deficit, because economic common sense says, and most economists agree, that if this Government can live within its means, our economy will be a much more productive place. I say to my fellow Senators, and we all know what that means. That is opportunity, that is jobs, that is productivity, that is the average family being able to care for their children and having the pride to say to their children, "You are going to have a better life; you are going to have greater opportunity; we want you to have that college degree, and we can assist you in doing so because our lives are better lives."

That is the issue at hand. It is the debt. It is the question of deficit. It is the drag on the economy and the nonproductive way that we have found ourselves increasingly caught up in, unable to provide those kinds of opportunities.

I applaud what this side is attempting to do in response to the American people and future generations to come.

You see, Mr. President, I have parents—like we all do—who grew up in the Depression days, and they tell me about the phenomenal difficulties and the attitudes that for a generation that experience provoked on the American scene; that somehow they thought less of themselves and less of their ability to produce because of the phenomenal negative economic experience that that generation went through.

Can we assume that that could never occur again? Well, we should not, and that is what Republicans and Americans are doing today in their effort to produce a balanced budget to control the growth of Government and say to future generations, "We heard you and we provided an economy that will give you the opportunity you seek."

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 2 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I am delighted to join my colleague from Massachusetts in supporting this amendment. As I listen to some of the rhetoric on the floor, I really feel like this is Alice in Wonderland out here. This is not a debate about whether we are going to reduce the deficit or balance the budget. The Republicans keep coming back and saying, "By God, the only way we are going to deal with the deficit and the budget is to do these things."

The choice here is how we are going to balance the budget. They want to spend more money on B-2 bombers.

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 universities that 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 kids are going to drop out of school." And they are going to drop out of school because they are going to have $5,000 of additional costs in interest on the PLUS loan that is going to be $700 to $2,500 of debt because they eliminate the interest subsidy on the 6-month grace period. They are going to have a transfer tax on colleges and universities participating in the student loan program, and they are going to end, for half 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 about what happened to the men 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 tired to flee to Bosnian Government-held territory and more than half were brutally 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 directly 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 hear what the administration knows about the relationship between Bosnian Serb forces and the Yugoslav Army, and the relationship between Mladic and Milosevic. Have we been told 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 need to know whether we are 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 is responsible for war crimes, 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 Yugoslavia, 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 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's 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.

Mr. DOLE. I yield 30 seconds to the Senator from Minnesota.

Mr. WELLSTONE. I thank the majority leader for his statement made on these war crimes, these atrocities. I do not believe that those who committed these crimes should be able to get away with it. I think it would be a terrible mistake for the world.

I appreciate the power of what the majority leader says. I very much appreciate his focus on the war crimes.

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Minnesota.

Mr. WELLSTONE. When I heard what my colleague from Idaho said, I could not be in more profound disagreement. The debate is not on a balanced budget, deficit reduction; it is on a Minnesota standard of fairness. This agenda here is not connected to the reality of the lives of people that we represent back in our States: "Senator, I am a student at Moorhead State, I work three minimum-wage jobs. The college years are not the best years of my life."

"Senator, I am a nontraditional student. I am older than you and I lost my job; I am going back to school, and I do not have much money. If you cut my financial aid, I will not be able to get back on my own two feet."

"Senator, I am a single mother, and I am going back to school, and I have two small children. If you cut my financial aid, I will not be able to move from welfare to workfare."

I hear it in community colleges; I hear it in public universities; I hear it in private schools. I asked my colleagues, I say to my colleague from Massachusetts, during markup, "Have you held town meetings in the campuses? Do you know what the consequences of what you are doing here in the Senate will be for students in this country?"

Mr. President, this is outrageous.

I ask unanimous consent to have printed in the RECORD the text of a petition from 515 students at Inver Hills Community College and Lakewood Community College.

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

PETITION FOR SAVING OUR STUDENT LOAN PROGRAM

Students are concerned about federal financial aid cuts Congress proposes to higher education. If these cuts are made, they will affect my ability to go to college and find a living wage job. Please help me continue to have an education that is affordable and accessible. The economic security of our nation depends upon a well-educated work force. America's future rests in your hands.

Mr. WELLSTONE. Mr. President, I simply say it loud and clear, and I will shout it from the mountaintop. I only

have probably 30 seconds left. If you want to do deficit reduction, cut the subsidies for the pharmaceutical companies, cut the subsidies for the oil 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 and all 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-so-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 budget 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 a 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 by our Republican friends on raising the revenues. In their proposal, they put a tax—described by the majority of the Republicans as a "fee"—on every educational institution in this country. They would mandate a tax on every educational institution. The cruelest part of all is that the amount of that tax increases as they provide more and more assistance to the neediest students that go to those schools. 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 sons 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 resources 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 corporations. 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 to 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 helpless elderly patients 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. 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 proposal on student loan cuts. We have had months to change the proposal. I hope we will support this amendment that represents the best judgment of parents, educators, and working families.

Mr. EXON. Mr. President, I thank the Senator from Massachusetts for his excellent presentation, and I agree with his remarks. I agree with his conclusion. I hope we can move in an expeditious fashion.

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 read. It does not take many staff people to read it. It is very simple.

It says, "Let's reduce this tax cut for the wealthy and use the savings to reduce the cut on Medicare for the elderly." That is a very simple proposition.

It has been almost 30 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 why. What we have is a stall.

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 that this, handed to the wealthier families in America, will provoke significant smiles because they will find some awfully good news in here for their families. Drive a Mercedes Benz, make half a million a year, there is awfully good news in here for you.

If you are an elderly person, dependent on Medicare or a poor person on Medicaid or a middle-income family trying to send your kids 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 is 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 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 when they claim the GOP's proposed $500 tax credit for families earning up to $200,000 is a tax cut for the rich." He says those folks are lower middle class.

Heineman, former Raleigh Police Chief, told the Raleigh News and Observer that his salary of $133,000 plus $50,000 a year in police pensions "does not make me rich. It does not make me 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, really? 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 these 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 and we don't think 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 it.

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 $750,000 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. Does anyone remember the characters in Star Wars, R2-D2 and C3-PO? I was thinking, if children in this society had names with numbers maybe they would do better; right?

Let me 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, for helicopters, amphibious 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 order.

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 and all of you in this room 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 says he wants 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 1 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 will 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—1 of 12—because we knew it wouldn't work in 1965."

So you have the Republican leader in the Senate and the Republican leader in the House, both of whom have been trying to portray themselves as helping Medicare, now bragging about the 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 next item that will be offered by the Senator from Arkansas with 30 minutes equally divided; is that correct?

Mr. ABRAHAM. Yes. We are prepared to do 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 never mention 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 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 the 20,000 Vermonters 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 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.

Mr. President, the list of programs that the Republican leadership are slashing under the thin guise of reform is long.

This bill is a back door version of the New Federalism, the short-lived brainchild that was the predecessor of the Contract With America. Congress piles up the rhetoric while dumping the tough decisions on the States.

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.

I think we all agree that the Medicaid reform proposal before us turns the program over to the States, at greatly reduced funding levels.

Despite all the disclaimers from its supporters, I remain unconvinced that it is anything more than a recurrence of policies that once made poor farms and orphanages the sanctuaries for low-income children and families in America.

I agree that States should have more flexibility, but not at the cost of our national responsibility. Our States will find themselves hundreds of millions of dollars short of funds to provide necessary health care over the next 7 years.

Vermont already has flexibility through the Federal waiver process.

Vermont's plan continues the Federal/State partnership nature of Medicaid and enables Vermont to cover 15,000 more of the State's growing number of uninsured.

This bill will nullify Vermont's initiatives to administer the program more economically.

The budgetary pressure on States to make cuts in eligibility and benefits will be very strong. On average, States will lose 30 percent of their Federal Medicaid payments by the year 2002.

There is no provision in this bill that would provide Vermont, or any State, with additional resources in times of economic downturn or recession when the Medicaid rolls have historically increased.

Vermont will lose 10 percent on average over the next 7 years and cuts are backloaded so that Vermont will lose 27 percent in the year 2002.

This cut is estimated to reduce Federal Medicaid payments to Vermont by $205 million over the next 7 years.

If the sharp reductions in Federal Medicaid funding cannot be offset by managed care savings or cuts in payments to providers, States will have to cut benefits or severely limit the number of people eligible unless they are willing to pay a much larger share of the cost of the program with State funds.

Competition among States may contribute to the pressure to restrict eligibility.

Without Federal standards, many predict a race to the bottom where no State wants to be seen as providing broader coverage or more generous benefits than its neighbors.

While there was much talk about this bill partially retaining an entitlement for low-income pregnant women, children, and the disabled, the truth is that the bill fully follows through on the Contract With America proposal to provide no assurance to any low-income American that they will get the health care they need.

This fact was certified by the Congressional Budget Office earlier this week.

The plan also repeals requirements that now protect nursing home residents from being restrained, drugged, or forced to live with substandard care in disreputable homes.

It replaces these safeguards with 50 separate State regulations 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.

MOTION TO COMMIT

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 revenues.

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.

I can remember not too many months ago when that 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 who crafted this whole thing, 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 share our 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 in accordance with $245 billion, 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

$656 or $660 billion in Social Security surpluses that are going to be used. To say we are going to have a balanced budget when we are using Social Security surpluses, when we are $78 billion short even by the Republicans' own numbers, it is a scam to lead the American people to believe that we are going to have a balanced budget. If we never have another deficit after 2002, our grandchildren and great-grandchildren are going to pay interest on this tax cut.

You know, the reconciliation bill provides $5,600 per year—listen to this—$5,600 per year in tax cuts for the wealthiest 1 percent of the people in this country, and the bottom 50 percent wind up with less money than they had before this reconciliation bill passes.

What does that say about the values of the U.S. Congress, about their attitude—not toward people with stocks who get dividends and interest, but about working people who sweat and toil every day to keep this Nation going, who get nothing out of this except increases, lowered standard of living?

Do you know something else? This bill stands squarely on the shoulders of 50 brave Democrats who, in August 1993, passed a reconciliation bill. I want you to think about this. If it were not for 50 brave Senators who stood on their hind feet and voted to raise taxes on the wealthy and to cut spending accordingly, the Republicans would be faced with raising another $1.081 trillion to balance the budget.

The senior Senator from Texas, a candidate for the Presidency, said we want all of those people in the back of the wagon to get out and help the rest of us pull. They were. Every single Republican in the Senate was in the back of the wagon that day when a lot of people lost their jobs a year and a half later for doing something so sensible. And here they are still in the back of the wagon taking advantage of $1.8 trillion that the Democrats provided, the most courageous, sensible thing that the President of the United States has proposed since he has been President.

Mr. EXON. Will the Senator yield for a second for a unanimous-consent request?

Mr. BUMPERS. I am happy to yield.

Mr. EXON. I ask unanimous consent that the unanimous-consent request not be charged to either side. In order to try to accommodate as many people as possible we are trying to shrink down this time.

I ask unanimous consent that, rather than one-half hour of time on this amendment, it be reduced by 5 minutes each to 25 minutes per side.

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

Mr. EXON. I thank my friend and say, to accommodate a lot of people, we have subtracted 5 minutes.

Mr. BUMPERS. Mr. President, our friends on the other side of the aisle have the best of both worlds. They can criticize and carp about that bill in 1993, and yet they have never tried to undo one penny of it; did not undo the gas tax, did not undo the 36-percent tax rate increase, have not done anything about the surcharge, and they get the benefit of over $1 trillion in balancing the budget because 50 Senators stood up—and 2 of them are not with us today because they did; and about 17 Members of the House are not with us today because they did.

This tax cut is the height of fiscal irresponsibility. That is the reason we call it the fiscal responsibility amendment, to do away with the tax cut until we balance the budget. We have the rest of our lives to cut taxes. Our first chore is to keep faith with the people of this country.

If you eliminate the tax cut, you do not balance the budget in the year 2002 even by the Republican figures. You can do it in 2001. That would be shocking.

But the most important thing I want to say, Mr. President, is do not cut taxes when we are running this kind of a deficit. Balance the budget, and then talk about taxes. When you are talking about tax cuts, talk for a change about working people and real middle-class Americans.

Mr. President, I yield the floor. Does anyone wish time?

I yield to the distinguished Senator from Michigan 5 minutes.

The PRESIDING OFFICER. The 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 disproportionally to the wealthiest among us. Indeed, more than half of those tax breaks would go to the wealthiest 14 percent of Americans, and we are talking about the fully phased in tax package. In that tax package, while the upper 14 percent get over 50 percent of the tax reductions, 14 million Americans of modest means would actually get a tax increase.

This maldistribution is reason enough to reject this tax package. But it becomes all the more unacceptable when one considers the extreme lengths to which the majority has gone to pay for these large tax breaks. Senior citizens are hit hard, students are hit hard, and working people are hit hard. But, above and beyond those flaws, there is the simple fact that we in this tax package would be providing tax cuts before assuring the reality of the deficit reduction that is projected. In other words, under this bill we would be spending the money before it is in the bank.

We have seen this before. In 1981, President Reagan introduced the Economic Recovery Tax Act which had large tax cuts, and also had projections, aspirations, hopes, and plans that the budget would be balanced by 1984. The tax cuts were not made dependent upon those projections taking place. If they had been, we would have been a trillion dollars better off in those years. But it seems to me that history is so recent that we ought to take its lessons and say to ourselves that we have to get deficit reduction under our belts before we enact tax cuts. This time let us make sure that projections of deficit reductions turn out to be true before we do the easier part.

On October 18, the Congressional Budget Office Director, June O'Neill, wrote the chairman of the Senate Budget Committee to provide the critical certification which the budget resolution calls for. The claims of a balanced budget are based on that certification, and the tax cut is based on an argument that we are reaching a balanced budget by 2002, which in turn is based on that certification. But when you read the certification, it is a bunch of hedges.

The Congressional Budget Office letter says, "Based on estimates using economic and technical assumptions underlying the budget resolution, assuming the level of discretionary spending specified in that resolution, the Congressional Budget Office projects . . ."—and later on the letter says—"the Congressional Budget Office projects that the resulting reductions in interest payments will be $50 billion in the year 2002 and $170 billion over the 1996-2002 period." Then the Congressional Budget Office says, "Those projections were based on a hypothetical deficit reduction path." It is based on those hypothetical estimates, projections, that the balanced budget claim is made for the year 2002. But even more significant, for the purpose of this amendment which is pending, it is based on those hypothetical paths, projections, and estimates that the tax cut is being defended.

This letter does not certify much except that the Congressional Budget Office has a long list of wiggle words which are available to us. And it is the foundation; it is that certification again which is the foundation for the assertion that the budget is going to be in balance in the year 2002. And you cannot help that because you have to have projections and estimates. But what we can avoid doing is providing a tax cut before we know in fact that the budget is going to be balanced.

So what this amendment says is hold off the tax cuts until we balance the budget. In fact, let us put the money in the bank before we spend it.

And, let's not be fooled by the happy talk about reaching a balanced budget. It is not balanced by any commonsense or legal definition. We know already, as Congressional Budge Office Director June O'Neill's letter to Senator CONRAD acknowledges, this plan falls short of balancing the budget by $105 billion in the year 2002. This is because the Republican majority's budget uses

the surplus in the Social Security Trust Fund to mask the real Federal deficit.

The law, section 13301 of the Congressional Budget Act, states:

[T]he receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of:

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

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 or in any other surplus or deficit totals 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 spending cuts over 7 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 in 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.

The PRESIDING OFFICER. 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 dollar tax cut, are so out of proportion to any consensus the public would support that I think they doom 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 103d Congress. The President's deficit reduction package produced $600 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, but for the debts rung 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.

Of course, Mr. President, not everyone 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 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 to save Medicare and then you are going to use the same dollar to eliminate the deficit and then you are going to use the dollar for tax cuts. You can only spend it once. This budget uses it not to save Medicare, not to reduce the deficit, but to fund tax cuts. For that reason, I regard this as the most important amendment in this process, and I urge my colleagues to support it.

I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I wonder if the minority leader has a speaker here he wishes to recognize at this point?

Mr. ABRAHAM. Is the Senator referring to me?

Mr. BUMPERS. Yes.

Mr. ABRAHAM. He mentioned the minority leader.

Mr. BUMPERS. Majority leader. I am sorry; I have a hard time breaking the habit.

Mr. ABRAHAM. I will have somebody 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. Like 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.

So I understand why it is there. This is about polls and focus groups and finding out what is popular—let us give a tax cut. I wonder how the American people would feel if they were told that every dollar of this tax cut will 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 $660 billion increase in the debt and then a $245 billion tax cut. In other words, every single dollar plus much 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 20 from the Director of the Congressional Budget Office. I asked, is the budget in balance in the year 2002? The answer is no—$105 billion deficit in 2002. That is, of course, if you take the Social Security trust funds and put them in the Social Security trust funds where they should be. If you take them out and use them as operating revenue, then you balance the budget.

I guess those who took remedial accounting and believe that double entry

bookkeeping means you can use money twice in two different places at the same time. I guess they are comfortable and they can sleep with this. But, of course, if you were in private business and said, let me take the money out of my employees' pension funds and use it on my operating statement, you would be doing years at hard tennis at some minimum 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 the budget 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 Congress by a record-setting $270 billion. 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 on the floor all the time is in no 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 the deficit, we 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, hard-working families, for your $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. Wait, to jobseekers who need the opportunities created by progrowth 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 that was promised in the 1992 campaign 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 now.

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 governorships change 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 accountability and 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 steadily 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 operates on the simple premise that 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, tax and spend, and 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 right thing and bring the budget into 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 agents of change have a solemn obligation to do the unheard of, keep their promises. And I believe we will.

Mr. President, I would just like to show two charts in the short time I have of what parents can purchase with a $500-per-child tax credit in America.

For example, with a $500 tax credit, items parents can purchase: a winter jacket, $30; winter boots, $30; athletic socks, $6.50, six pairs of those; a sweat shirt, $12; books, $100; a tutor for their child, $230, 32 hours. That is $498.50. We checked it out.

We also have another chart for the $500 tax credit. Parents can purchase 847 jars of baby food or, Mr. President, 2,370 disposable diapers or approximately 6 months of electric bills.

The $500 tax credit for working families in America is real, and they need it.

Ms. MIKULSKI. Mr. President, I rise in strong support of the fiscal responsibility amendment. Mr. President, we should not cut taxes until we balance the budget. This reconciliation legislation cuts taxes before the budget is balanced. This is like eating dessert before dinner.

I support a balanced Federal budget 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 Republicans 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 Republicans 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 would take 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 opinion is severely limited.

While I give our 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 nearly $5 trillion debt, and even a unified balanced budget is at least 7 years away if we get there at all. And for all the talk about fiscal responsibility recently, how can we endorse a $245 billion tax cut that makes balancing the budget much more difficult and adds 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 spending reductions, particularly Medicare and Medicaid, in this plan are politically unsustainable. I fear, Mr. President, that we will abandon the spending cuts and leave the tax cuts in place at a time when their cost will begin to explode. And as we have seen before, the end result will be we will simply be further away from a balanced budget.

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? I simply cannot agree.

Including $245 billion in tax cuts in this budget package is not courageous, it is not wise, and it not equitable. 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.

YOU'RE RIGHT MR. PRESIDENT, YOU RAISED TAXES TOO MUCH!

Mr. ROTH. Mr. President, why after shackling American middle-class families with the largest tax increase in history, has Bill Clinton finally admitted that he made a mistake? Why does his confession come just days before Congressional Republicans are scheduled to meet in conference to finish one of the largest tax cut proposals since the Kemp-Roth income tax rate reductions brought our economy roaring back in the 1980's?

Because Bill Clinton knows his taxes did not deliver on his promise to improve the economy, bring down interest rates, and thereby reduce the deficit.

Tax increases never do.

History proves that increases actually poison economic growth while tax cuts unlock capital, encourage savings, improve investment, and create jobs, opportunity, and growth.

Kemp-Roth led to the longest peacetime economic expansion in history. Eighteen million jobs were created, along with four million new businesses. Family income rose and home ownership boomed as interest rates and inflation fell. At the same time, Treasury revenues doubled, not because Americans were paying a higher percentage of their income to taxes, but because Americans had higher incomes.

We must unlock this kind of growth again. Only by creating an environment where our economy can expand can we simultaneously cut the deficit and meet necessary Government obligations.

Last spring the House passed a 7-year $354-billion tax reduction package. 76 percent of which, would go to family relief, and 24 percent to job creation. The plan offers a $500-a-child tax credit, encourages savings and investment, and offers other incentives for economic growth.

The proposal recently passed by the Senate Finance Committee cuts taxes by $245 billion, offers relief for our middle class—with over 70 percent of the $245 billion going to families making less than $75,000 a year—and, like its House counterpart, contains incentives that will encourage savings, investment, capital formation, and business growth. These provisions mean more jobs for Americans, greater economic security for our families, and stability 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 employment 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 both proposals are: First, a $500 child tax credit; second, restoration and strengthening of Individual Retirement Accounts; third, relief from overbearing estate 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 that in Washington we will change business as usual. The current 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.

Our proposals represent a major step toward correcting these deficiencies, and because we have cut spending, our bill balances the budget while making room for tax relief. The House has acted. Now, the full Senate must pass the Finance Committee's proposal. Following a House-Senate conference to iron out any differences between the bills, both Chambers must pass this historic reform, and the President must sign it into law.

Americans need relief. Our economy needs a shot in the arm. Even Bill Clinton has admitted as much. We call on him to join us in our efforts to unleash the potential our economy has to move us into a bold and exciting future.

He admits he made a mistake. Working together, we can fix it.

Martin Feldstein, former Chairman of the President's Council of Economic Advisers and professor of economics at Harvard University spells out in a very livid fashion what the 1993 tax increases really did in an article in The Wall Street Journal. I request that article be included in the RECORD in its entirety.

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

[From The Wall Street Journal]

WHAT THE '93 TAX INCREASES REALLY DID

(By Martin Feldstein)

President Clinton was right when he recently told business groups in Virginia and Texas that he had raised taxes too much in 1993, perhaps more so than he realizes. We now have the first hard evidence on the effect of the Clinton tax rate increases. The new data, published by the Internal Revenue Service, show that the sharp jump in tax rates raised only one-third as much revenue as the Clinton administration had predicted.

Because taxpayers responded to the sharply higher marginal tax rates by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

HOW IT HAPPENS

To understand how taxpayer behavior could produce such a large revenue shortfall, recall that the Clinton plan raised the marginal personal income tax rate to 36% from 31% on incomes between $140,000 ($115,000 for single taxpayers) and $250,000, and to 39.6% on all incomes over $250,000. Relatively small reductions in taxable income in response to these sharply higher rates can eliminate most or all of the additional tax revenue that would result with no behavioral response.

If a couple with $200,000 of taxable income reduces its income by just 5% in response to

the higher tax rate, the Treasury loses more from the $10,000 decline in income ($3,100 less revenue at 31%) than it gains from the higher tax rate on the remaining $50,000 of income above the $140,000 floor ($2,600 more revenue at 5%); the net effect is that the Treasury collects $600 less than it would have if there had been no tax rate increase.

Similarly, a couple with $400,000 of taxable income would pay $18,400 in extra taxes if its taxable income remained unchanged. But if that couple responds to the nearly 30% marginal tax rate increase by cutting its taxable income by as little as 8%, the Treasury's revenue gain would fall 67% to less than $6,000.

How can taxpayers reduce their taxable incomes in this way? Self-employed taxpayers, two-earner couples, and senior executives 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 to stocks with lower dividends. Individuals can increase tax deductible mortgage borrowing and raise charitable contributions. (I ignore reduced realizations of capital gains because 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, Daniel Feenberg at the National Bureau of Economic Research (NBER) 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 for taxpayers 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.

We concluded that the high income taxpayers reported 8.5% less taxable income in 1993 than they would have if their tax rates had not increased. This in turn reduced the additional tax liabilities of the high income group to less than one-third of what they would have been if they had not changed their behavior in response to the higher tax rates.

This 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 increases occurred within 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 retiring earlier, by choosing less demanding and less remunerative occupations, by buying larger homes and second homes with new mortgage deductions, etc.

The 1993 tax law also eliminated the $135,000 ceiling on the wage and salary income subject to the 2.9% payroll tax for Medicare. When this took effect in January 1994, it raised the tax rate on earnings to 38.9% for taxpayers with incomes between $140,000 and $250,000 and to 42.5% on incomes above 250,000. Although we will have to wait until data are available for 1994 to see the effect of that extra tax rate rise, the evidence for 1993 suggests that taxpayers' responses to the higher marginal tax rates would cut personal income tax revenue by so much that the net additional revenue for eliminating 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 invest. The combination of that obviously false assumption and a gross underestimate of the other ways in which taxpayer behavior reduces taxable income caused the revenue estimators at the Treasury to conclude that taxpayer behavior would reduce the additional tax revenue raised by the higher rates by only 7%. In contrast, the actual experience shows a revenue reduction that is nearly 10 times as large as the Treasury staff assumed.

This experience is directly relevant to the debate about whether Congress should use "dynamic" revenue estimates that take into account the effect of taxpayer behavior on tax revenue. The 1993 experience shows that unless such behavior is taken into account, the revenue estimates presented to Congress can grossly overstate the revenue gains from higher tax rates (and the revenue costs of lower tax rates). Although the official revenue estimating staffs claim that their 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 "static" no-behavioral-response estimates because they explicitly ignore the effect taxes on work effort and grossly under estimate the magnitude of other taxpayer responses.

CURRENT PROPOSALS

In Congress had known in 1993 that raising top marginal tax rates from 31% to more than 42% 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 votes to pass his tax increase.

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 do nothing to repeal the very harmful rate increases of 1990. Rolling back both the personal tax rates and the Medicare payroll tax base to where they were before 1993 would cost less than $7 billion a year in revenue and would raise real national income by more than $25 billion. Now that the evidence is in, Congress and the president should agree to undo a bad mistake. •

Mr. BUMPERS. I yield the Senator from Florida 2 minutes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, we have just heard a speech about change versus the status quo. This is one place in which we are all together. This is the status quo. This is deja vu all over again. We started this process of saying that we were going to meet deficit reduction targets and committed to the American people our frugality and our dedication to their attainment.

We did it under what was called Gramm-Rudman. And in the years from 1986 to 1990, those 5 years, we had deficit-reduction targets for Gramm-Rudman that were supposed to bring us to a balanced budget early in this decade.

What did it, in fact, bring us? More enormous deficits. And every year of Gramm-Rudman, from 1986 to 1990, we failed to meet the deficit reduction target. In fact, the total amount of our excess deficits, deficits beyond the target, was $201 billion over those 5 years.

Did we change that pattern after President Bush went to Andrews Air Force Base and negotiated a new deficit-reduction plan? We did not—in 1991, 1992, 1993, again, failure to meet the deficit reduction targets in excess of $150 billion in just those 3 years.

Mr. President, we delude ourselves, we repeat the status quo, not engage in change if we are saying that we are going to give ourselves this tax benefit before we demonstrate, first, that we have a serious, credible plan for balancing the Federal budget that is not just smoke, mirrors and ideas in the minds of a few people, but rather concrete law that has been passed, signed by the President and is a firm national contract and commitment to its attainment, and, second, a period of demonstrated fidelity to that plan and performance under that plan.

I am the grandfather of eight young boys and girls. I know one thing about children: They like to eat their dessert before they will eat their spinach. That is what we are being asked here to do, is eat the cake and ice cream before we have the carrots and peas. I think we should not go down that path one more time.

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

Mr. BUMPERS. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. KERREY. The Senator from Alabama's speech was earlier. It was helpful. I have to pick up some groceries on the way home. But I did not find it to be terribly helpful in this debate, saying that Democrats have no accountability, that Democrats are not willing to make hard choices, that we are for the politics of the status quo. That is just bunk.

I just stood out on the Capitol steps a little while ago endorsing a Democratic proposal that balanced the budget in 7 years, making very tough choices but without this tax cut. And one of the hard truths that we have to face right now is, the truth of the matter is Republicans in America, Mr. President, not Republicans in this Congress, by the New York Times poll this morning, Republicans in America oppose the tax cut. Indeed, more Democrats in America support the tax cut. And the most revealing thing of all is that the lower the income goes of working people, the more they favor a tax cut. Unfortunately, they do not benefit from this tax cut.

Indeed, as a consequence of change in the earned income tax credit, and according to the Republican Joint Tax Committee, every family under $30,000 will have a tax increase.

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 are able to vote in a bipartisan fashion for tough choices, that break the status quo of deficit financing and move us 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 colleague 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 doing 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 at an upper-income category and simultaneously increasing the tax obligation of those people at the working class category.

If you make $30,000 or less, you have got a $352 tax increase. That is what is in this bill. It is in black and white, a $352 tax increase.

If you are the top 1 percent of income earners, your tax break is almost $6,000. 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.

The PRESIDING OFFICER. The Senator from Michigan.

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 they are ready I 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 clerk will call the roll.

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.

Mr. ABRAHAM. Mr. President, at this time, I yield 5 minutes to the Senator from Texas, to be taken off our time on the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, if you are looking at our budget which is now before the Senate, it addresses two basic facts that I believe alarm all working Americans.

The first fact is that the average family in America with two little children, which in 1950 was sending $1 out of every $50 it earned to Washington, DC, is today sending $1 out of every $4 it earns to Washington, DC. And if over the next 20 year, we do not start a new spending program nor eliminate an existing one, to pay for the Government we have already committed to will mean that in 20 years the average working family in America with two children will be sending $1 out of every $3 they earn to Washington, DC.

Bill Clinton looks at that trend and says, "Great, let's accelerate." We look at it and say, "It has to be stopped and it has to be reversed." And that is exactly what we do in our budget.

The second figure is a very simple fact and it is an alarming fact. A baby born in America today, if the current trend of Government spending continues unabated, will pay $187,000 of taxes in their working lifetime just to pay interest on the public debt. That is not just economic suicide, that is immoral, and we are determined to stop it.

Here is basically where we are. We have written a budget that over 7 years comes into balance. President Clinton has trumpeted the fact that the deficit today is down, but he does not show us that his own budget office shows that under his budget, and the Congressional Budget Office shows convincingly, that the deficit now skyrockets under the Clinton budget. He has sent us not one but two budgets, and under both of those budgets, the deficit explodes.

We have proposed a budget that achieves balance in 7 years, and now the President is saying to us that unless we increase spending on programs that we do not need and we cannot afford that the President is going to veto our budget.

Well, Mr. President, let me say as one Member of the Senate, there is no circumstance under which I am going to go back and rewrite our budget. There is no circumstance under which I am going to agree to increase spending, to continue the deficit spree that threatens the future of our country and that threatens the future of our children.

We have proposed a budget that cuts taxes. It gives a $500 tax credit per child for every working family in America. What it means is that if we are successful next year, every working family in America that pays taxes that has two children will get to keep $1,000 more of what they earn to invest in their own children, to invest in their

own family, to invest in their own future.

Now Bill Clinton says the Government can spend the money better than that family can spend the money. We reject that. We think history proves that notion is wrong and we are confident that the people who do the work and pay the taxes and pull the wagon in America agree with us.

Our $500 tax credit per child, our elimination of the marriage penalty will mean that the average working family in my State will get to keep $1,100 more of their hard-earned income to invest in their own future, to invest in their own children, and we want that to happen.

We talk so much about balancing the budget, but it has been so long since we have done it that people forget what the benefits of a balanced budget are. First of all, since we are balancing the budget and cutting taxes, the first benefit for a working family with two children is they get to keep $1,000 more of what they earn.

But a balanced Federal budget would mean on an average mortgage of the average working family, that their mortgage payments per year over the next 20 years would be $1,664 less per year. In buying a new car every 4 years and financing it, as most working Americans have to do, they would pay $180 less in interest costs for buying that car every year because we balanced the budget.

Because we will have more growth when income is going into expanding the economy, that is $1,385 of income for every working family.

You add it all up and the average family in America gains, I repeat, gains $4,229 a year directly from a balanced budget. It means over 1.75 million more jobs annually and reducing the national debt mortgage on our grandchildren by $66,000.

This budget is a choice: Do you want more income, lower interest rates, higher growth, more jobs, less debt on your grandchildren and to keep more of what you earn?

We say, "Yes." The Democrats say, "No, Government can do it better."

MOTION TO COMMIT

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

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] moves to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to reduce revenue reductions attributable to tax breaks benefiting upper-income taxpayers over the next seven years in an amount necessary to avoid unfair cuts in Medicare payments to rural hospitals and other rural health care providers, to maintain federal support at the levels recommended by the President of the United States for federal agriculture and nutrition programs, and to maintain levels of federal support for education and child care in rural America.

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 people 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 several more. Altogether, for the next 7 years, it sets our national agriculture policy.

It is supposed to keep rural economies stable. And it should 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 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 up on the floor today.

At an absolute maximum, the agricultural part of this budget will get a grand total of 50 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 will be awfully quiet. But we're here to make up for it.

We are going to use these 45 minutes to tell the truth about the big, gobbling, turkey out here on the Senate floor. And then we'll give the other folks a second chance.

Our motion to recommit will restore the traditional, bipartisan approach to agricultural policy. We can work together, restore some fairness and moderation. And if we adopt this motion, our friends on the other side of the aisle can have something to be proud of when they go home and talk to their farmers.

SEVEN LEAN YEARS TO COME

If you have read Genesis, chapter 41, you know the story of Joseph's dream. He compared the 7 years to come with:

seven kine . . . poor and very ill favoured and lean-fleshed, such as I never saw in all the land of Egypt for badness.

These seven ill-favored cattle ate up the good cattle, just as seven ears of corn, "withered, thin and blasted with the east wind" ate up seven good ears of corn. So Joseph could tell that the future would bring 7 years of trouble—7 lean years, in which "all the plenty shall be forgotten in the land of Egypt."

Well, we may not be as wise as Joseph. And the days of inspired prophecy 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. Schools, 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 our competitors in Europe are 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 painful 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 Paraoh about his dream. And Paraoh 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, nonpartisan 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.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield 4 minutes to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, there is kind of a joke in Illinois that goes: "Just outside of Chicago, there's a place called Illinois."

That joke, or that phrase, used in the tourism industry, is based upon a notion that when people think of Illinois, 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 industry. That part of the State is where 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 lead you to 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 that I was elected to represent.

I hope always to represent all of that State and speak to the interests of rural Illinois—speak to the interests of what we call downstate as much as any other part of my State. That part of Illinois, just outside of Chicago, is a part of Illinois that I am determined to see is not overlooked. But being overlooked, I think, captures the general feelings shared by many rural Americans this year when it comes to Federal dollars and Federal attention this part of the country needs and deserves.

Mr. President, rural Illinoisans understand the meaning of shared sacrifice. No group of Americans should be asked to share a disproportionate burden of cuts any more than any other group. Rural Illinoisans have told me, and I have been around my State in town meetings, the deficit reduction should be a priority for this Congress. They understand that no Federal program should be off limits, that nothing should be excluded from review, and that everything should be on the table.

However, they also understand that shared sacrifice is something that means everybody. Shared sacrifice is exactly what this reconciliation bill fails to accomplish.

Some Americans will see huge and significant tax cuts from this bill. But more than half of all Americans, including most rural Americans, will see no tax cut at all. What is more, the net effect of the overall bill is to tighten the economic vise on rural America.

The $13 billion in farm program cuts proposed by this bill means that Illinois farmers will lose over three-quarters of a billion dollars in economic protection. With $113 million in title I education cuts, rural Illinois loses $3 million at a time when many rural school districts face a funding crisis. The cuts proposed for grants and loans for water and waste disposal programs mean thousands of rural Americans will not have access to safe drinking water.

I understand my time is concluded. I would like a further minute to finish up.

Mr. BAUCUS. I yield 30 seconds to the Senator from Illinois.

Ms. MOSELEY-BRAUN. In closing, Mr. President, for rural America, this bill, in fact, is "Robin Hood in reverse." The cuts on the rural programs are needlessly excessive, and given the fact that the tax breaks called for in this bill are absolutely inconsistent with our objective of deficit reduction, I believe we should recommit this bill back to the Finance Committee.

Mr. President, just outside of Washington is a place called rural America, a place populated by hard-working Americans who are willing to do their share—and then some—to achieve real deficit reduction, but who cannot afford the loss of economic opportunities this bill entails.

Surely we can do better than this bill.

Mr. BAUCUS. I yield 2 minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I want to talk about safety nets. The policy relative to agriculture is designed around a safety net. They have target price tied to some degree to the cost of production. This is a policy that has been established where there is no payment in good years. When you have a bad year, you need a safety net.

The proposal in the House eliminates the safety net. The proposal in the Senate puts gaping holes in the safety net for farmers. The idea of doing away with farm programs over a period of time, in my judgment, fails to realize the calamities, the disasters, that farmers face. They are subject to weather, they are subject to foreign competition, to price changes, all sorts of disastrous effects that can occur to the market.

I think we are making a serious mistake. We have cut agriculture programs from $30 million in 1986 down to $9 million last year. Here we come along with a $13.7 billion further cut in agriculture over 7 years. I think it is too much. We are not doing right by the farmer. We are doing away with the policy of safety net.

Mr. WELLSTONE. I yield a minute of my time to the Senator from Alabama.

Mr. BAUCUS. I yield 1 minute to the Senator.

Mr. HEFLIN. I want to mention, also, the safety net in regard to rural hospitals and the people.

In effect, what we are doing under the Medicaid and Medicare situation, we are eliminating a safety net for hospitals for rural America. In my judgment that is a mistake.

Safety nets go across the board. In my judgment, this bill is wrong in regard to what it does to rural America.

Mr. BAUCUS. I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, 2 minutes is hardly any time at all.

Let me just put it to you this way. This is thoughtless. This is not a farm bill. It is not agricultural policy. It is slash and burn. It is $48 billion over the next 7 years. It plays off children and nutrition programs against family farmers, against the environment. It is a 50-percent cut in the Conservation Reserve Program, which in my State of Minnesota and I bet every State, has brought together those that love outdoor recreation and the environmentalists and the farmers.

This is really, Mr. President, the opposite of a careful policy—the very opposite of a careful policy. What we have here is the worst of all worlds—keep the farm prices low, then have some subsidy. Have the subsidy in inverse relationship to need, with taxpayers having to pick up the cost.

Mr. President, why do we not understand that rural people are not going to stay out of sight and out of mind? Why are we picking on the people that we think do not have the voice, picking on the people we think do not have the power, picking on people who are not the heavy hitters, not the players, are not the big contributors.

That is what this is about. We should not have these tax cuts that go to wealthy people. We should not have a Pentagon budget that is $7 billion over what the Pentagon wanted, and we should not lavish subsidies on most of the major large corporations and financial institutions in the country.

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 on a number of fronts. Republican cuts to Medicare will force 157,700 older and disabled rural Washingtonians to pay higher premiums and higher deductibles for a weakened second class Medicare Program. 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, Medicaid 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 2002 if the Republican plan is adopted. Gordon Lederer, a farmer in Latah, WA, sits on the board of directors of the Tekoa Care Center. Patients pay $90/day at Tekoa, and Mr. Lederer said that the board does not know how the Care Center will continue to provide service to the community if the cuts to Medicaid are enacted.

Mr. President, cuts to the earned income tax credit will cripple working families and their ability to provide for their children in rural Washington. The Republican cuts to EITC raise taxes on 49,945 working families in rural Washington by an average of $388 in 2002, imposing a $1.4 billion tax increase on rural Americans overall. And there's more.

The 25 percent cut to farm programs will reduce farm spending in my State of Washington by $290 million, drastically reducing support for commodity programs. I am particularly concerned about the reductions in the loan rate for wheat. These reductions could threaten the viability of farms in my State. In fact, I just heard from Mack and June Crow, wheat farmers from Oaksdale, WA. Their son now runs the family farm and they are deeply concerned about the impacts of the farm program cuts on their farm's income and hence, their ability to survive. Farms are a symbol of American bounty recognized worldwide. They are a major part of Washington State's export-based economy. Most importantly, they are a way of life that roots us and grounds us in our history and our land. To balance the budget on the backs of family farmers is not only unfair, it is un-American.

Republican cuts to education programs will deny basic and advanced skills education to 937 children in rural Washington. Small town schools in Washington are already having difficulty making ends meet. A 17 percent cut in title I funds will deny these schools crucial assistance as they struggle to adequately prepare our children for the future.

In addition, cuts to rural nutrition, housing, and transportation programs as well as cuts to programs designed to protect the environment and public health add insult to injury, and will further undermine our rural Americans attempts to secure a solid future for themselves and their children.

Mr. President, this Republican plan to balance the budget unfairly targets rural Americans. It burdens them with far more than their fair share of cuts. I therefore encourage my colleagues on both sides of the aisle who care about rural America to support this motion to recommit.

Mr. DASCHLE. Mr. President, today my colleagues and I offer an amendment to the budget reconciliation bill that reaffirms our commitment to rural America. This budget 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, schools and hospitals 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 the bulk of the farm bill. Buried in this 2,000-page document is the heart and soul of agricultural policy for the next 7 years. There were no hearings during the development of this bill and no opportunity for Democratic input. Now we do not even get a vote on farm policy. It is all rolled up in this enormous budget bill. Everyone knows this is not the way farm bills have been developed in the past.

This farm bill rips the safety net out from under our hard-working producers by cutting $13.4 billion from farm programs over the next 7 years. In South Dakota that translates into a loss of $460 million for our producers. Nationwide net farm income is projected to decrease over $9 billion over the next 7 years. Clearly family farmers who are already disappearing at the rate of 600 per week cannot tolerate this level of income reduction.

The pain of this budget does not stop at the farm gate. It bleeds into our rural hospitals. Ten to fifteen rural hospitals are projected to close in South Dakota if the proposed Medicaid/Medicare cuts are enacted. Some people already have to drive over 50 miles to reach a hospital or doctor. After this budget goes into effect they will have to drive even farther. Add to that the fact that over 2 million rural residents nationwide will be denied Medicaid, and anyone can see that this budget is 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 as 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 choices: 2,000 pages of making choices.

All across this country people got up this morning and ate breakfast food. Some ate rice that was crisped, called rice krispies. Some ate flaked corn, called corn flakes; wheat that was puffed, puffed wheat.

It is interesting. We have folks that raise these crops. They plow and raise wheat and corn. Down South they raise rice. Then we have a lot of folks that process it—the ones that put the crisp in it, put the flake in it, put the puff in it.

The big agrifactories have plenty of reason to smile at this. This bill is a really nice deal for them: tax cuts, major advantages.

But, the folks who get up in the morning and plow, they do not have much reason to smile. They get big cuts.

The President said $4.2 billion in cuts. We agreed to that.

But the Republican majority came along and more than tripled it. You cannot write a decent farm program that way. They painted themselves in the corner.

So instead of bringing a farm bill to the floor, which we have always done before, for the first time in history

they threw it into a reconciliation bill and hoped nobody would notice.

Their approach is to say to farmers, do not worry. If you are a family farmer in trouble, move to downtown. That is their answer.

It is not an answer for North Dakota, in my judgment. 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. I 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 $9,050—from $31,120 to $22,070—in the next year. The House Republican plan is even worse—it would cost a typical farmer $17,850. Farm income would decline from $31,120 in 1995 to $13,270 in 1996. Under these plans, typical dairy farmers will lose 30 to 60 percent of their annual incomes. These farmers are already working dawn to dusk just to get by.

These numbers are consistent with a new analysis that USDA released a couple of days ago.

When those farmers in St. Albans hear how bad these cuts are, they will be stunned.

This budget is a war on rural America in many ways.

Over 27,000 working families in Vermont alone will see their taxes increase because the Republicans are scaling back the earned income tax credit.

The typical rural hospital will lose $5 million a year or more in Medicare. In rural Vermont, doctors and hospitals will lose $290 million in Medicare funds. I am afraid that doctors will simply abandon the small towns.

Schools in rural Vermont will lose $1.2 million in education funding. Our schools cannot afford that kind of hit.

Republicans want to create giant tax breaks for rich people and big corporations. The average rural family is not wealthy enough to benefit from the Republican budget. In Vermont, 63 percent of taxpayers earn less than $30,000—those are the people who will see their taxes increase.

According to Congressional Research Service, over half of all heads of households working in the agricultural sector qualify for the earned 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 farm operators and managers nationwide will see their taxes increase under this Republican budget.

This Nation's farmers are struggling, and this budget says to them, "Tough luck."

The Finance Committee cut the EITC but it passed over $200 billion in tax breaks. Most of those tax breaks will benefit families earning over $100,000 a year. Only 3 percent of rural households earn that kind of money.

Several Senators addressed the Chair.

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

The PRESIDING OFFICER. 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 would mean a 60 percent 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 over agricultural trade.

We would pull the rug out from 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. We ought 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 PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. 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.

The estate tax laws, the way they are—and they have not been changed for 15 years; the capital gains tax 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, because in most 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 sell 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 will increase $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 assumption 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 farmers to plant for 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 signals. These 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.

It is true that Government 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 farm 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. THOMAS. 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 friends on 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—this is a fee 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 have 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 Republican plan plans to extend 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 caucus, 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. BAUCUS. I yield the remaining time.

Mr. HARKIN. Mr. President. I thank the Senator for yielding.

Mr. President, in times past, when rural America was hit with droughts or floods, we brought disaster bills to the floor of the Congress. These bills were to ease the suffering of rural communities in hard times and to help stop disasters.

Yesterday morning we were handed this, a brand new 2,000-page disaster bill. But this bill does not cure a disaster in rural America: it provokes one. This is a disaster bill for agriculture. We were supposed to have a farm bill this year with a full debate on a sound food and agriculture policy for the Nation. Instead, agriculture has now been slipped into these 2,000 pages—I bet no one has really read the darned thing—and we have had no opportunity for real debate or amendments.

Once again, agriculture is being forced to take unfair and unreasonable cuts amounting to 25 percent over the next 7 years —even though agriculture has already been reduced significantly and commodity programs amount to about one-half of 1 percent of the budget. One-half of 1 percent, but commodity programs take a 25 percent cut over the next 7 years. Tell me if that is fair.

This is a disaster bill for rural health care. We all know that access to quality, affordable health care in rural communities has been a serious problem for years—especially for seniors. This disaster bill, with its drastic Medicare cuts, makes it even worse in rural America.

This is a disaster bill for America's farm families, who are already having a tough time making ends meet. Net farm income in real dollar terms will be at its lowest level this year since 1986, in the depths of the farm crisis. This disaster bill makes it worse by lowering farm income another $9 billion, according to USDA estimates.

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

The majority controls 15 minutes 30 seconds.

Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are in the process of trying to work out a unanimous-consent agreement that will start us voting. So I am going to suggest the absence of a quorum.

Mr. HARKIN. May I finish my statement? May I have enough time to finish my statement?

Mr. DOMENICI. How long does the Senator wish to speak?

Mr. HARKIN. For a minute and a half. I was on a roll, and I did not want to stop.

Mr. DOMENICI. Of course; 2 minutes. Can the Senator pick up the roll?

Mr. HARKIN. I will pick up the roll.

The PRESIDING OFFICER. The Senator from Iowa is yielded 2 minutes.

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 decimates USDA's ability to respond to price-depressing surpluses.

What if commodity prices and farm income fall as they did in the 1980s? Under this disaster 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 excessive and unsupportable. It is unconscionable that this bill is cutting our commitment to school lunches, school breakfasts, summer meals, and the special milk program.

Mr. President, these drastic cuts to rural America are driven by ideology and not by common sense. They are unfair, unreasonable, and unconscionable.

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 interests of rural communities over the interests of a privileged few.

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

Mr. COVERDELL. Mr. President, our side yields back its time, and 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. 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 AGREEMENT

Mr. DOLE. I have been informed by Senator DASCHLE, the Democratic leader, that they will limit their amendments that they will offer after all time has expired, and with that commitment I now ask unanimous consent that all first-degree amendments pending to motions to recommit and all pending second-degree amendments be withdrawn.

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

Mr. DOLE. This will leave the following issues that need to be disposed of by rollcall votes that have been debated yesterday and up to this point today: The Rockefeller motion concerning Medicare, followed by the Abraham amendment 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 colleague where we go after the voting sequence that will occur 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 time. 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 midafternoon 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.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. 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 purpose of their 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 Montana.

Mr. BAUCUS. May I inquire of the majority leader when the vote on the Bumpers deficit reduction amendment and Baucus rural restoration amendments will occur. I was a little bit confused as I listened to the leader read the list and then say the Kassebaum amendment would come up after the Kennedy amendment. There was an ambiguous point as to when the vote on the Bumpers amendment and vote on the Baucus amendment would occur.

Mr. DOLE. They will occur after the Kassebaum amendment or her designee. So it will be KASSEBAUM or her designee, then BUMPERS, then BAUCUS.

Mr. BAUCUS. And then the other second-tier amendments?

Mr. DOLE. Then second-tier amendments. And then third-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 en bloc 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. DOLE. I so amend my request.

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

Mr. DOLE. One minute equally divided.

The PRESIDING OFFICER. One minute equally divided.

Mr. DOLE. Divided very quickly.

Mr. DASCHLE. That is right.

Mr. DOMENICI. Could I ask a question?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. We have agreed to this, have we not?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Could I ask, yesterday, when the Abraham amendment was being discussed on fraud and abuse, we heard a comment from your side that it would be accepted. If that is still 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 want 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 precluding 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 that request. It may be that we do not want you to say yes to our request.

Mr. DASCHLE. Mr. President, I would 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?

The PRESIDING OFFICER. The Senator from New Mexico is correct.

The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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. 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 cutting $270 billion, for tax breaks, from what is needed to fund the Medicare program. We are not just scaling back Medicare, we are eroding its foundation.

Medicare experts estimate that keeping part A solvent through the year 2006 requires $89 billion in cuts, not the $270 billion called for under the GOP proposal. Those who want to cut Medicare argue that cuts are necessary to get us to a balanced budget in 7 years. That puzzles me.

If the objective of this bill is to balance the budget, why are we simultaneously considering a plan to cut taxes by $245 billion over the same period? Clearly, the vast majority of the cuts are not needed to keep Medicare solvent, but are needed to pay for new tax breaks.

I am deeply concerned about the size of the Medicare and Medicaid cuts, and the fact that the savings will be diverted to provide tax breaks for the wealthy. But my foremost concern is the impact these proposals will have on the poor, elderly, and the disabled who will be drastically hurt.

Under the Republican proposal, Medicare premiums and deductibles will increase, and the quality and availability of care will be seriously compromised. Seventy-five and eighty-five percent of Medicare beneficiaries have incomes under $25,000, and the increase in out-of-pocket costs could make Medicare coverage unaffordable for many. Furthermore, the portion of cuts that do not fall on beneficiaries directly will be borne by the providers who deliver Medicare services. These cuts will be shifted to the rest of the population in the form of higher medical bills and higher health insurance costs.

I would also like to discuss briefly the provisions of the bill pertaining to the Medicaid Program. In addition to cutting $182 billion in Medicaid over 7 years, the proposal before us replaces the current Medicaid Program with a block grant capped at fixed dollar amounts each year. The bill would offer only minimal coverage and benefits, eliminate all Federal Standards for providers and delivery systems, and abolish the Federal standards set for nursing homes and institutions caring for the mentally retarded.

In 1987, national standards for nursing home care were established with broad bipartisan support. These standards were designed to protect nursing home patients because of the horrendous treatment many were receiving and because State regulations were inadequate. Yet the Republican plan to cut Medicaid by $182 billion contains a provision repealing the national standards for nursing homes, even though these standards have improved care substantially.

Mr. President, we all agree that we must balance the Federal budget. However, we must do it the right way. We must ensure a basic safety net and make adequate investments for the future. I question the priorities set forth in this legislation. This bill does not safeguard health care for our Nation's elderly, poor, or disabled; it does not ensure proper care of vulnerable people in nursing homes; and it certainly does not make adequate investments in our future.

Mr. President, I sincerely hope that we recognize the tremendous benefits these programs have made in our society and urge that we continue the fight for dignity and security for our Nation's most vulnerable as we work to balance the Federal budget.

I yield the floor.

Mr. LEAHY. Mr. President, this budget bill is a raw deal for Vermont. It makes deep and unnecessary cuts in Medicaid, Medicare, student loans, and dairy programs that will devastate our economy for years to come. And it will raises taxes on 63 percent of working Vermont families. This is the wrong way to try to balance the budget.

This bill cuts Medicaid by $182 billion over the next 7 years and turns this vital program into a block grant to the States. Over the next 7 years, these cuts will reduce Federal Medicaid payments to Vermont by $205 million. This plan defaults on our guarantee that seniors would receive health care assistance when they need it the most.

Vermont's acceptance of this enormous responsibility would leave the State hundreds of millions of dollars short of funds to provide necessary health care over the next 7 years.

The plan also eliminates requirements for nursing homes to provide proper health standards, a loophole that will be seized by some to lower the quality of care and life in these institutions.

It is not an easy decision to place a parent or a spouse in a nursing home, but often it is the only alternative to ensure that they get proper care. And it will be even more difficult if the Republican plan prevails.

The bill cuts Medicare by $270 billion over the next 7 years. It will cut payment rates to providers and hospitals.

make seniors pay higher premiums and increase deductibles. Vermont will lose $356 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 that fixed 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 say "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 the 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 more than $7,000 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 from the earned income tax credit—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. This is 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 needed to balance our 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, of 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 continues the effort that is already underway in the Appropriations Committee to balance the budget. To date the Appropriations Committee has reduced Federal spending by $24 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 know that we 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 in entitlement spending. Earlier this year I stated 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 some disagreements 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 the 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 Health Plan, 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 have no guarantee that the plan 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, savings, and 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 this is an amazing debate we are having today, a debate I was not sure I would ever see—should we, or should we not, pass a bill which will get our budget into balance over the next 7 years.

It is historic. It is bold. It is unprecedented. And judging by the reaction, it is real.

Unfortunately, $5 trillion in debt has piled up waiting for this day, so even with this action, we are still passing on a huge debt to our children and their children.

When I first got to Washington, after coming from State government where we had to balance the budget every year, I was amazed at the cavalier attitude taken by so many about budget crisis.

It did not take me long to learn that walking away from budget problems had become so ingrained that success was defined as holding the deficit to only $200 billion—meaning we only added $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 actually say No to 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 today to start paying attention to the financial and economic devastation thy are creating for tomorrow's generations.

We have heard many speeches about the need to cut spending, 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 their zeal to make political points. 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 is paying out in claims more than it is collecting in premiums. It is only because of the interest earned on the trust fund's surplus that Medicare is not insolvent right at this moment.

This means that as I speak, for every dollar a senior is paying in, more than a dollar in claims is being paid out. So why is everyone not saying stop, something has to be done?

Next year even including the interest earned on the trust fund's won't be enough to pay out all the claims. Thus next year Medicare will be insolvent, and it will be forced to start eating into its rainy day fund—the money which has been built up in order to be available for the baby boomers who start to retire in the next decade.

And then if nothing is done, by the year 2002 the surplus will be gone and the entire program will be bankrupt and will be forced to shut down.

So again I ask, why is the President not saying we must do something to fix this drastic problem—not just delay it again like has been done so often before—but actually fix it?

Why are my colleagues in the Democratic party not saying let us get to work on this problem?

Instead they want to paper over the problems in Medicare, only fiddling around the edges, while making no effort to make fundamental changes in the program as we realize must be done. We want to make savings by giving seniors a real choice—they offer a 2-year bandaid to get them beyond the next election.

So what does our bill do? It takes on the task of reforming and overhauling Medicare—both to protect it for today's seniors, as well as preserve it for tomorrow's. It also expands choices, and bring the program of the 1960's into the health care system of the 1990's. And it gives us 25 years of additional solvency—versus the 25 months of the Democrats' plan.

How much clearer can the choice be? A thoughtful long-term solution—or a get-me-through one more election BandAid.

Mr. President this debate is much bigger than Medicare. It is much bigger than Medicaid, agriculture, civil service retirement, or welfare. It is about what financial legacy we want to leave to our next generations.

It is about whether people believe that $5 trillion in debt is enough, and whether we in Congress have the courage to hit the spending brakes.

I hope we do. And hope that the President will find the courage to do the same.

Finally, I would like to express my opposition to the amendment that the senior senator from Arizona has indicated he plans to offer.

That amendment would, allegedly, eliminate 12 pork programs—a goal I would support if it delivered on that promise. Unfortunately, however, the amendment would target several programs which are critical to our international competitiveness and our ability to create high-paying export jobs. Let me quickly touch on just a few examples:

First, the amendment would require the Export Import Bank to raise loan

fees which would have the impact of making Exim financing uncompetitive vis-a-vis other countries' export finance agencies. That means U.S. companies will lose deals and U.S. workers will lose jobs.

Second, it would reimpose recoupment fees on commercial sales of military equipment overseas. The Bush administration eliminated this fee because it was making U.S. export uncompetitive and costing jobs. It makes no sense to reimpose it.

Third, it would cancel NASA's subsonic and supersonic research programs. These programs are aimed at ensuring U.S. aerospace companies retain their technological edge into the 21st century. If it becomes technically possible, it will be economically viable to build only one supersonic airplane. I want that plane to be built by Boeing or McDonnell Douglas, not by Airbus.

CAPITAL GAINS—FAIRNESS

Mr. HATCH. Mr. President, we need to consider some very important facts concerning the fairness of the capital gains tax rate reduction in the reconciliation bill before us.

We have heard some statements here on the Senate floor over the past few days by some of our colleagues who believe that a broad-based capital gains tax rate reduction somehow favors the rich at the expense of middle- and lower-income taxpayers. I want to set the record straight on this issue.

WHO PAYS CAPITAL GAINS TAXES?

First, Mr. President, let us start by examining who pays capital gains taxes in this country.

The fact of the matter is that most of the tax returns reporting capital gains come from taxpayers in the lower- and middle-income categories.

Since there are varying views as to where the middle-income category begins and ends, I have prepared two pie charts contained within chart 1 to illustrate who these taxpayers are.

The pie on the left shows that, on average, from 1985 to 1992, 62 percent of all returns reporting capital gains came from those reporting $50,000 or less of adjusted gross income [AGI]. I repeat, 62 percent. This amounted to more than 5½ million taxpayers per year.

The pie on the right, Mr. President, shows the same information for taxpayers with higher incomes, but still within what most would consider as the middle-income category.

As you can see, 79 percent of all returns reporting capital gains came from those reporting $75,000 or less of AGI. On average, this was over 7 million taxpayers per year.

Capital gains realization is hardly the exclusive domain of the rich.

Actually, these figures dramatically understate the number of people in the lower- and middle-income categories who will benefit from the capital gains deduction.

It is estimated that about 44 percent of all people reporting capital gains recognize such gains in only 1 out of 5 years, on average.

In 1986 alone, of the 7.6 million returns reporting capital gains, 3.1 million of these taxpayers reported no capital gains in the previous year.

THE "OCCASIONAL 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 gains recognition in a particular year, he or she will stay in the rich category forever. Such is simply not the case.

Take, for example, a typical farming couple in Cache County, UT, who has struggled over the years to make ends meet and finally decides to sell the farm and move to the warmer climate of southern Utah.

Even though this couple may never have reported more than $30,000 of farming income in any given year, in that 1 year of sale they will be lumped in with the rich because they reported a $250,000 of 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 reported.

However, when the entire 4-year period was considered as a whole and the occasional nature of recognitions 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.

Mr. President, to get a better feel for how many lower- and middle-income taxpayers will actually benefit from the capital gains deduction in this bill, consider 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 52 percent of the 30.2 million families owning mutual funds report incomes of $50,000 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 1990, Congress once again created a differential between the top tax rate on capital gains income and the top tax 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 bill remedies this situation 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 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 therefore be voting against the Kennedy amendment. But I will be voting in favor, obviously, of the Kassebaum-Snowe-Jeffords amendment.

Our amendment restores the 6-month grace period, eliminates the .85 percent institution fee, and lowers the interest rate on PLUS loans. Reducing the labor committee's instruction from $10.85 billion over 7 years to $5 billion.

Let me lay aside the issue of reducing education cuts for one quick moment and explain why this amendment is so important.

The amendment offered by my democratic colleagues restored direct lending to current law—or a transition to 100 percent. I simply could not support such a provision.

I have always been a supporter of testing the direct lending program and am on record as opposing the labor committee's bill to limit it to 20 percent. Twenty percent in my view is too small, it cuts out schools that currently participate in the program—that to me is wrong.

However, as I stated during debate of the 1993 reconciliation, I believe in a slow, implementation of direct lending. It should be undertaken thoughtfully and carefully. The amendment offered by my democratic colleagues is tantamount to a phase-in of direct lending. A phase-in suggests something very different than a thoughtful analysis of the two programs. My fear is that we have already made the decision to go 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 direct lending. That cap, in my mind should be set at a point which protects the schools that are current participants and allows some room for growth. I suggest that number be set between 30-40 percent.

Mr. President, that is not the amendment we are currently considering. I offered that suggestion to my colleagues as a bipartisan approach. Unfortunately, that amendment coupled with billions of dollars in additional student aid, was rejected by the democrats and interestingly also by groups purporting to represent higher education. In particular the council on education.

I am truly disheartened that today we may have lost an opportunity to demonstrate to this Congress, the administration and the people of this country that education is not a partisan issue. Unfortunately, we gave 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—reducing 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. It strikes the .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 $1,000, resulting in additional payments of nearly $1,400 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 then less educated workers.

Between 1973 and 1993, median family income dropped by over 20 percent for families headed by a person with a high school diploma or less; but it held steady for those families headed by someone with 4 years of college; and increased for families head by someone with 5 years of college or more. (Mortenson, June 1995)

We need to encourage our young people to pursue higher education both to keep us competitive and to help balance the budget.

Higher education funds cannot be cut any further.

Unfortunately, the opportunity for individuals to go on to postsecondary education is getting slimmer and slimmer. Pell grant awards have not kept pace with college costs. Students have had to increase borrowing in order to make up the difference.

In 1985-86, the actual maximum Pell grant of $2,100 paid 58 percent of the total annual cost of attendance for a 4-year public institution $3,637. In 1993-94, the maximum Pell grant of $2,300 paid only 36 percent of the total cost, $6,454.

Because Federal grant programs have grown much more slowly than the cost of attending college, loans now, 1994-95 account for 56 percent of all student aid, up from 49 percent in 1985-96.

Borrowing has skyrocketed in recent years to such an extent that the amount borrowed through the FFEL program from 1990 to 1995 is greater than the total amount borrowed from its inception in 1965 through 1989.

With such statistics it is no wonder that polls show more and more students and families deciding that college is simply out of their reach. In fact, close to 20 percent of students consider leaving school because of debt. Considering the impact on our economy and the future earning potential of individuals with a postsecondary degree, this statistic is most disheartening.

I urge my colleagues to support this amendment and tell the nation that the issue of education spending is a bipartisan issue.

I see that the Senator from Maine has arrived. I am happy to yield to her.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. 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 what Senator KASSEBAUM's amendment will effectively do is to say to the 1,400 schools that now have direct lending that half of them are out. Half of them are out. There is no suggestion about how you are going to cut those out.

Under our amendment, we are leaving the choice to the schools, to the colleges. It is so interesting that our Republican friends want to close the option for local control out. We leave it up to the schools. If they want to get in, they can—maximum choice—and we leave it up to the schools to have competition between the direct loan program and the guaranteed loan program.

Under the amendment of the Republicans, they will be preserving the $77 billion that will flow through the guarantee agencies and guarantee $5 million in profits. That is not competition. Where is the voice for competition among the Republicans? Where is the description about what colleges are going to be in and what colleges are going out?

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 jiggle the system and force the students into the guaranty system.

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 lending. This is, frankly, a brazen kind of pandering to the banks and the guaranty agencies. There is not a 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 into 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 law, that leaving this 20 percent, as the Kassebaum amendment 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 colleges like, 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 bill—and they have record-breaking 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, this 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. DOMENICI. 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:

U.S. CONGRESS.
CONGRESSIONAL BUDGET OFFICE.
Washington, DC. October 26, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your letter of September 5, 1995, you asked the Congressional Budget Office (CBO) to respond to several questions regarding the Credit Reform Act and section 207 of the 1966 budget resolution related to the treatment of administrative expenses in the student loan programs. Attached are CBO's responses to your questions.

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.

Attachment.

RESPONSES TO QUESTIONS FROM CHAIRMAN DOMENICI

The Credit Reform Act of 1990 provided that the federal budget would record the cost of direct loans and guaranteed loans on a subsidy basis rather than a cash basis. The act defined the subsidy cost of a loan to equal the present discounted value of all loan disbursements, repayments, default costs, interest subsidies, and other payments associated with the loan, excluding federal administrative costs. Federal administrative costs of loan programs continued to be accorded a cash-accounting treatment. Estimates of proposals affecting student loans made from 1992 through early 1995 used the accounting rules established in the Credit Reform Act.

The budget resolution for fiscal year 1996, adopted in June 1995, specified that the direct administrative costs of direct student loans should be included in the subsidy estimates of that program for purposes of Congressional scorekeeping. Since June, for estimating legislation under the 1996 budget resolution, the Congressional Budget Office (CBO) has used this alternative definition of subsidy costs. In addition, changes in economic and technical estimating assumptions complicate 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 lower interest rates to borrowers as of July 1997, substantially increase the annual capped entitlement levels for direct loan administrative costs, and subsidize 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 President's proposal became the policy assumed in that year's budget resolution.

The legislation passed by the Congress differed significantly from the policies assumed 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 of the total and substantially cutting subsidies in the guaranteed loan program. Specifically, direct loans were to represent 5 percent of total volume for academic year 1994-1995, 40 percent for 1995-1996, 50 percent for 1996-1997 and 1997-1998, and 60 percent for 1998-1999. The legislation also provided that the ceiling could be exceeded if demand required it.

Question 2: In his FY96 budget, the President proposed an acceleration of that plan so that all student loans would be provided directly from the government no later than July 1, 1997. What "additional" savings did CBO estimate for the accelerated phase-in under the Credit Reform Act?

Answer: The President's fiscal year 1996 budget request included a proposal to expand the direct student loan program to cover 100 percent of loan volume by July 1997. This proposed change was estimated to save $4.1 billion from the CBO baseline over the 1996-2002 period. That baseline incorporated CBO's February 1995 economic and technical assumptions and the direct loan phase-in schedule provided under current law. This baseline reflected the rules that are currently in law for estimating the cost of credit programs.

The 1996 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 with that for guaranteed student loans. For purposes of Congressional budget scorekeeping, the change overrides the Credit Reform Act, which requires that the federal administrative costs for direct loan programs be accorded a cash-accounting treatment.

For estimating legislation under the 1996 budget resolution, CBO modified its baseline for direct student loans to include in the subsidy calculations the present value of direct federal administrative costs, including the loans' 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 include 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 resolution baseline for student loans is higher than the current CBO baseline. Under the assumptions of the budget resolution baseline, 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, under scoring rules in effect prior to the 1995 budget resolution, for the above proposal? How would those savings be affected over the life of the loan? How would those costs be compared with the same volume of 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 detail than has been provided 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 addressed only the budgetary treatment of the administrative 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 included in the resolution baseline 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 more appropriately be 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.

Answer: Indirect 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 these 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 the costs of government oversight, regulation writing, Pell grant certification, and other similar expenditures are personnel costs of the Department of Education or contracted services. In addition, many of the costs, such as program oversight, are not tied to a single loan portfolio but affect many portfolios and both programs. Allocating these costs to specific portfolios and 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 were always included in the subsidy costs of guaranteed student loans. However, OBRA-93 gave the Secretary of Education authority to make such payments out of the $2.5 billion capped entitlement fund for the direct loan program. Any expenditures from this fund would be accounted for on a cash basis. If the Secretary chose not allocate any funds for this purpose, then 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 cost allowances to guaranty agencies 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 expenses on a cash basis under the capped entitlement account at the Department's current services levels.

It makes little budgetary difference whether 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 programs and the budget totals would be changed only marginally by 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 law. Including the current 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- to 30-year period. Determining 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 as part of 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 administrative costs of guaranteed 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) eliminate the authority for new direct student and parent loans effective in academic year 1996-1997; (2) change the annual and cumulative budget authority levels under Section 458 to reflect the elimination of indirect administrative cost anticipated for new direct loans and the termination of payments of Section 458 funds to guarantee agencies and limit the funds to $24 million annually; and (3) reestablish an administrative cost allowance (ACA) for guarantee agencies at 0.85 percent of new loan volume or 0.08 percent of outstanding volume, with an annual limitation on ACA subsides of $200 million. Assuming an enactment date of October 1995, the proposals would reduce outlays for student loans by $227 million for fiscal year 1996 and by $1.5 billion over the 1996-2002 period.

Relative to the budget resolution baseline, shifting loan volume to guaranteed loans would save $855 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 discretionary guaranty agency payments, and the remainder reflects the elimination of the indirect costs for the phased-out direct loan program. Reestablishing the ACA for a 100 percent guaranteed loan program would cost $1.3 billion over seven years.

Although the Goodling proposal would have eliminated most of the funds to funds a oversee the phased-out direct loan program by reducing the capped entitlement level for these funds, it did not address the level of appropriated funds that would be necessary to oversee the larger guaranteed loan program.

Question 9: Did the Goodling proposal to eliminate the direct loan program and make changes to the guaranteed program you were asked to score, address all federal administrative costs of direct and guaranteed loans? When you applied the new scoring rule, were you able to properly categorize those expenses to provide a completed fair calculation of the cost differential?

Answer: All of the cost analyses of the Goodling proposal for both the direct and guaranteed loan programs were completed using the same budgetary treatment for both programs. The Goodling proposal, however, did not address the level of discretionary appropriations necessary to oversee the larger guaranteed loan program.

Mr. SIMON. Will my colleague yield for a question?

Mr. DOMENICI. Yes.

Mr. SIMON. Under the scorekeeping in the budget resolution, you say count the administrative costs for direct lending but not for the guaranteed program, and we asked CBO, how do you score it under current law? There is a savings of $4.6 billion under direct lending.

Mr. DOMENICI. There is a statement in the letter from CBO on that issue.

Mr. SIMON. I will read it, and I thank my colleague.

Mr. DOMENICI. 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 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.

We thank you for it.

VOTE ON ROCKEFELLER MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have not been ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—46

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

NAYS—53

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

So the motion to lay on the table the motion to commit was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider 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 Michigan.

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 PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—99

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

So, the amendment (No. 2950) was agreed to.

Mr. DOMENICI. 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.

BRADLEY MOTION TO COMMIT

Mr. EXON. Mr. President, I understand that the Bradley motion is next. I would appreciate, if possible, the Chair recognizing the Senator from New Jersey for the purpose of a 1-minute statement.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, this amendment eliminates the tax increase on people making under $30,000 a year. This bill contains a tax cut for estates of $5 million, a tax cut in the amount of $1.7 million.

We are not touching that tax cut, but we are trying to prevent the tax increase that will come in this bill for people making under $30,000 a year. The EIC offsets income taxes, Social Security, and excise taxes. The other side has talked only about income taxes.

Last year, with $114 billion in Federal taxes, only $12 billion of that was income taxes from people making under $30,000 a year. Why increase taxes on those hard-working Americans? These are Americans who work every day, and they pay their taxes, and they support their families.

This motion is progrowth and profamily. It deserves to be supported because it is a tax cut for individual working families.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I yield our time to Senator NICKLES.

Mr. NICKLES. Mr. President, one, let me just tell my colleague from New Jersey, and other colleagues, there is no tax increase for individuals making less than $30,000. That claim has been refuted by the Joint Tax Committee. It is totally false, and people making that claim should really be ashamed of themselves.

Mr. President, I am going to put in the RECORD the facts. The facts are, the earned income tax credit grows even under our proposal. It grows. The maximum benefit that anybody can receive today is $3,100. It grows next year to $3,200. And in 7 years it grows to $3,888. It is an increase.

This is a program that is a cash outlay program. Eighty-five percent of this program is Uncle Sam writing checks, not reducing liability, but writing checks. And it is the most fraudulent program we have in Government today. GAO said 30 to 40 percent of it was in fraud and in error.

It needs to be reformed. That is what we do. This program should be reformed. These proposals that we have made, I think, are the right things to do for American families.

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

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

FISCAL YEAR 1996: TWO PARENTS, TWO CHILDREN

Income	EIC: Two or more children		Tax burden			EIC relief: As a percent of tax burden	
	Current law	Senate reform	Income taxes	FICA (15.3 percent)	Total	Current law	Senate reform
$1	$0	$0	$0	$0	$0	261	235
$1,000	400	360	0	153	153	261	235
$2,000	800	720	0	306	306	261	235
$3,000	1,200	1,080	0	459	459	261	235
$4,000	1,600	1,400	0	612	612	251	235
$5,000	2,000	1,800	0	765	765	261	235
$6,000	2,400	2,160	0	918	918	261	235
$7,000	2,800	2,520	0	1,071	1,071	251	235
$8,000	3,200	2,880	0	1,224	1,224	261	235
$8,910	3,564	3,208	0	1,363	1,363	261	235
$9,000	3,564	3,208	0	1,377	1,377	259	233
$10,000	3,564	3,208	0	1,530	1,530	233	210
$11,000	3,564	3,208	0	1,683	1,683	212	191
$11,630	3,564	3,208	0	1,779	1,779	200	180
$12,000	3,486	3,124	0	1,836	1,836	190	170
$13,000	3,275	2,912	0	1,989	1,989	165	146
$14,000	3,065	2,700	0	2,142	2,142	143	126
$15,000	2,854	2,488	0	2,295	2,295	124	108
$16,000	2,644	2,276	0	2,448	2,448	108	93
$17,000	2,433	2,065	15	2,601	2,616	93	79
$18,000	2,222	1,853	165	2,754	2,929	76	63
$19,000	2,012	1,641	315	2,907	3,222	62	51
$20,000	1,801	1,429	465	3,060	3,525	51	41
$21,000	1,591	1,218	615	3,213	3,828	42	32
$22,000	1,380	1,006	765	3,366	4,131	33	24
$23,000	1,169	794	915	3,519	4,434	26	18
$24,000	959	583	1,065	3,672	4,737	20	12
$25,000	748	371	1,215	3,825	5,040	15	7
$26,000	538	159	1,365	3,978	5,343	10	3
$26,731	384	0	1,475	4,090	5,564	7	0
$27,000	327	0	1,515	4,131	5,646	6	0
$28,000	116	0	1,665	4,284	5,949	2	0
$28,553	0	0	1,748	4,369	6,117	0	0
$29,000	0	0	1,815	4,437	6,252	0	0
$30,000	0	0	1,965	4,590	6,555	0	0

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:

[Rollcall Vote No. 501 Leg.]

YEAS—53

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

NAYS—46

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

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 and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRAHAM MOTION TO COMMIT

The PRESIDING OFFICER (Mr. GORTON). The pending business is the motion of Senator GRAHAM to commit the bill with instructions. There are 2 minutes of debate equally divided.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, this reconciliation proposal is filled with risk—risk of the unknown, risks that have consequences that are beyond our ability to forecast. There is no area in this entire legislation that has a greater risk to the people of this country than the proposals in Medicaid.

We are proposing to cut Medicaid by $187 billion—I repeat, a program which, last year, had a total Federal expenditure of $89 billion, we are going to cut, over 7 years, by $187 billion. It is at risk because we are proposing, for those funds that are left, to place them in an inflexible block grant, without Federal participation, in terms of dealing with unexpected circumstances, and we are freezing in many of the inequities that have made this program inappropriate in the past.

Mr. President, we are putting at risk poor children, our elderly and, particularly, the States of America, as they are all being removed from the safety net that Medicaid has provided.

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

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:

[Rollcall Vote No. 502 Leg.]

YEAS—51

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

NAYS—48

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

So the motion to lay on the table the Graham motion to commit was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2959

Mr. EXON. Mr. President, I understand the next vote is on the Kennedy amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. EXON. 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 amendment No. 2959 by the Senator from Massachusetts [Mr. KENNEDY] and others.

The Senate will be in order.

Mr. EXON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Until conversations cease, we will just have to hold up.

The Senator from Massachusetts is recognized for 1 minute.

Mr. KENNEDY. Mr. President, I thank the Chair. This is an easy choice. My amendment strikes all provisions of the bill that increase the cost for students and families, and preserves choice and competition in the student loan program at the local level.

Senator KASSEBAUM's amendment rightfully pulls back the unfair and extreme provisions that increase the costs for students. It wrongfully prevents schools from choosing the loan program that best serves their students at the local level, and wrongfully provides a Government-mandated monopoly to the powerful special interests in the student loan industry.

I hope my amendment will be accepted.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senate will vote on an amendment offered by Senators KASSEBAUM, JEFFORDS, and SNOWE that removes all cuts affecting students. The Senate Republicans do this without raising taxes or taxing investment. The Republican plan will result in lower interest rates which will benefit all students and all Americans. That is what our entire deficit reduction package is all about.

I yield any time I have and I move to table.

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 the motion to lay on the table the amendment by the Senator from Massachusetts.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 503 Leg.]

YEAS—51

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

NAYS—48

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

So, the motion to lay on the table the amendment (No. 2959) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. 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.

The PRESIDING OFFICER. The Senate will be in order. It also slows down the Senate when conversations are going on during debate time.

AMENDMENT NO. 2962

The PRESIDING OFFICER. The issue before the Senate is amendment No. 2962 by the Senator from Kansas, [Mrs. KASSEBAUM]. There are 2 minutes equally divided.

Senator KASSEBAUM will be recognized when the Senate is in order.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield the time remaining to the Senator from Maine [Ms. SNOWE].

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. 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 on student loan funding.

First, the chairwoman of the Labor and Human Resources Committee, 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 generations without 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 workers.

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 importantly—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 programs 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 on the other side of the aisle would have wanted more, especially when it come 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 currently 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 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 1995-1996 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 an 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 families 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 average 50 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 returns as a result. 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 and the 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 very 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 54 percent—16 percent beyond 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 also ask unanimous consent to include as cosponsors of this amendment Senators ROTH, DOMENICI, PRESSLER, STEVENS, and SPECTER.

The PRESIDING OFFICER. Without objection, it is 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 .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 everyone.

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, I believe that 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 the 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.

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

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.

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

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, in 1981. this body. all but 11 Senators, voted for a massive tax cut on the argument that it would help balance the budget. Eight years and $2 trillion later. we all knew we had made a massive mistake. We are about to repeat it, though not quite the magnitude of that.

This amendment simply says what my good friend from New Mexico, the chairman of the Budget Committee. said on May 30 of this year, that there is one thing our side has agreed on: There will be no tax cut until we balance the budget.

Senator DOMENICI was right on May 30. and to vote a different way now is wrong.

The New York Times this very morning shows that a vast majority of the American people, even the wealthy who benefit most from this, are all opposed to a tax cut until we balance the budget. It is fiscal responsibility, and that is the reason we call this the fiscal responsibility amendment.

I yield the floor. Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, this amendment, I think, points up the difference between the two parties. We have a balanced budget. It has been certified by the Congressional Budget Office. Once we adopt this reconciliation instruction, we will have a balanced budget. Then it is time to give the taxpayers of America some relief.

We get a $170 billion economic dividend for getting a balanced budget. What should we do with that money? Should we spend it, or should we give it back to Americans. especially families who are having difficulty raising their children because we whittled down their deduction such that they are kind of on their own?

I believe it is right when you have made savings and have a balanced

budget, according to the Congressional Budget Office, that you ought to give money back to the people and not let the dividends sit around so we can spend it. The people want to spend their own money. It happens to be theirs, not ours.

Mr. President, I move to table the Bumpers motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bumpers motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—53

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

NAYS—46

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

So the motion to lay on the table the Bumpers motion to commit was agreed to.

Mr. DOMENICI. Mr. President. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

BAUCUS MOTION TO COMMIT

Mr. EXON. Mr. President, according to the pending business, the next item of business is the rural restoration motion.

I yield to the Senator from Montana for 1 minute.

Mr. BAUCUS. Mr. President, the budget bill before us is a raid on rural America. It cuts the farm program and begins to eviscerate, obliterate the farm program by cutting $13.4 billion over 7 years, 25 percent cut. The budget bill cuts health care, disproportionately affecting rural America because our hospitals have so many seniors. Medicaid is cut, hurting rural America. There is already a tendency for people to leave the farm and go to the city to seek some job to survive. We here should be sensitive to rural America, not insensitive, by raiding rural America. This bill before us raids rural America, accelerates the transfer of people from rural America to the city, which is something we should not do.

So my amendment simply says to the Finance Committee, go back and restore some of these provisions that affect rural America, but still balance the budget.

I urge adoption of the amendment.

Mr. DOMENICI. Mr. President, under the proposed reforms in this bill, the Federal Government will be spending and continue to spend $64.8 billion in outlays over the next 7 years for commodity-related programs.

Farmers will benefit the most of all groups of Americans if interest rates come down because they rely most on borrowed money, as compared with any other group of business men or women in the country.

Farmers and rural America will also benefit from the capital gains reduction in this bill.

In addition, this amendment instructs the Finance Committee to make changes in programs that are not even within their jurisdiction.

Mr. President, since that makes it not germane, I raise a point of order that this motion 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 motion, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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 46, nays 53, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—46

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

NAYS—53

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

The PRESIDING OFFICER. On this question, the yeas are 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 falls.

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 addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that time be charged to neither side.

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.

Mr. DOMENICI. Mr. President, I understand that it is our turn for three successive amendments, and the first of those three that we have on our side will be the Social Security earnings test by Senator MCCAIN.

Will the Chair 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.

NICKLES, proposes an amendment numbered 2964.

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that

(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;

(d) 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 7 years.

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 move this 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 then 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 have to go 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 back and forth today, some regrettably and some of it is a natural happenstance when a revolution is taking place because 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 1988, 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. In both bodies we 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 those who 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. My friend's 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, amongst 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. The highest effective marginal 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 both 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, we yield back our allotted 5 minutes.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I ask 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 used to train future workers, while bringing in more tax dollars and helping America stay competitive in the 21st century.

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 landscape is littered with a great irony: 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 a repeal of the law that limits what Social Security recipients may earn before their benefits are reduced.

The San Diego Tribune: The benefit-reaction 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 encourage willing older adults to remain in the work force.

The Orange County Register: Indeed, repealing the tax might actually increase revenues. More people would be working, paying more taxes of all kinds, including the Social Security tax. If our government bureaucrats want us to keep paying their salaries, the least they can do is make it possible to work in the first place.

Houston 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, the game appears rigged 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 retirees who need a part-time job to help with expenses.

Forbes: Moreover, people are living longer; the economy is hurt when 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.

[From the Los Angeles Times, Nov. 17, 1991]

WHY PUSH THEM OUT OF WORK?

CONGRESS SHOULD ELIMINATE OUTMODED SOCIAL SECURITY EARNINGS TEST

There are more than 40 million Americans age 60 or older, many of whom are eager to work beyond normal retirement age but can't afford to, thanks to an outmoded earnings test applied to Social Security recipients. The Senate, in a provision attached to the extension of the Older Americans Act, has voted to eliminate this punitive restriction. The measure now goes to a congressional conference committee, where House conferees will have a chance to accept the Senate's provision. They should do so, and the House should adopt it. Millions of workers would be the better for it, and so would government and society.

Current law says that people between the ages of 65 and 70 who draw Social Security and who earn more than $9,720 a year must lost $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—but there is more. Sen. John McCain (R-Ariz.) says that when federal, state and other Social Security taxes are factored in, the tax bite approaches nearly 70%. If that isn't age discrimination, McCain suggests, nothing is.

There is no earnings ceiling for Social Security recipients age 70 or older. It's nonsensical to have one for those younger. Maintaining the arbitrary ceiling and taxing away 33 cents out of every dollar earned from those who exceed it drives millions of productive workers into forced retirement. The nation's economy is not so robust that it can afford to lose willing, able and experienced employees. Federal and state treasuries 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 that older workers had to be pushed into retirement to make jobs available for new entrants into the work force. Demographics and the needs of the economy have changed. Millions of those older workers want to go on working without being punished if they earn too much. The time has come to let them do so.

[From the Arizona Republic, Nov. 17, 1991]

AGE DISCRIMINATION: LIFT EARNINGS CAP

Congress dotes on its anti-discrimination record. How then to explain why its continuing prejudice is targeted at a particular minority?

The earnings cap on Social Security benefits is a form of discrimination. "The earnings test translates into an effective tax burden of 33 percent," Sen. John McCain told a Senate committee. "Combined with federal, state and other Social Security taxes, it can amount to a stunning tax bite of nearly 70 percent."

The cap on earnings—set at $9,720 for retirees age 65 to 70—is "age discrimination of the worst kind," the senator said, and that "is plainly wrong." For every $3 earned above the cap, seniors lose $1 in benefits.

As Mr. McCain points out, 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 economic stagnation and declining international competitiveness.

Punishing people for working is wrong in an even more fundamental way. It violates an American principle known as the work 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 the earnings of seniors and administrative savings.

A Senate-passed measure to lift the cap is now in a conference committee, where it must be reconciled with a House-approved bill that would not eliminate the earnings penalty. If the House cares anything at all about fairness, it will end the discrimination now in place and free older Americans to work.

[From the Chicago Tribune, Jan. 5, 1991]

END SOCIAL SECURITY EARNING CURBS

(By U.S. Rep. J. Dennis Hastert)

When a country doesn't support its stated goals by adopting policies to achieve those goals, its aims become unattainable. Such is the case with our goal of restoring U.S. competitiveness in the global market. We say we want to regain our competitive edge, yet we follow obsolete policies that preclude us from fielding the most productive work force possible.

The most pernicious example of this practice is the continued application of the Social Security Earnings Test, a Depression-era relic that penalizes senior citizens who work after they retire. By forcing seniors to forfeit one-third of their Social Security benefits after they earn more than a ridiculously low amount, the Earnings Test tells the elderly we no longer value their expertise 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 56 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 afflicts the seniors who need extra income the most. Seniors can receive 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 operative buzz word is "competitiveness," 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 this was a good idea at the time is hardly relevant; as the U.S. population ages, seniors are becoming an increasingly important segment of the labor force. The government should support them, rather than financially penalize them, for remaining active and productive.

By the end of this decade, there will be 1.5 million fewer members of the work force aged 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 challenges, the United States needs to attract more people to participate in the labor force.

I have introduced legislation that would help our 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 Social Security subcommittee chairman, 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 returning workers and taxpayers. As a result, the NCPA reported, the annual output of goods would increase by at least $15.4 billion.

The NCPA, in concert with the Institute for Policy Innovation, another research group, revealed these findings in a recently published report, "Paying People Not to Work: The Economic Cost of the Social Security Earnings Limit."

Repealing the Earnings Test would also be a federal revenue gainer, the groups reported. "Government revenue would increase by $4.9 billion, more than offsetting the additional Social Security benefits that would be paid," the report stated.

The few remaining naysayers who continue to oppose repeal of the Earnings Test base their opposition on the belief that Social Security is an insurance policy. Specifically, Jacobs argues that benefits should be allocated only to those who are "retired"—and if someone is still working, and hence not "retired," he or she should not receive full benefits.

This reasoning ignores the difficulty seniors encounter in attempting to survive solely on Social Security or working at a job; seniors frequently need both to make ends meet. Because economic realities necessitate more money than Social Security or, say, a job at McDonald's provides, the Earnings Test must be repealed. Jacobs is simply out of step with the realities of the cost of living in the 1990's.

It is disturbing that two powerful committee chairmen are in a position to block landmark legislation that has the official support of a majority in the House.

It would be one thing to have the Older Americans Freedom to Work Act deliberated on the House floor and tabled. At least then the merits—or what some believe to be the lack thereof—would have been put in the open and subject to public inspection.

But a powerful minority of House leaders are doing everything in their power to make sure this bill is never debated on the House floor. Because of their refusal to allow deliberation on the proposed repeal of the Earnings Test, one can only conclude that they 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 economic vibrancy and doing away with outdated policies that inhibit it. Repealing the Social Security Earnings Test will both encourage a large portion of the 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 S. 243 to repeal the Social Security Earnings Test. We have written to the House and Senate conferees expressing this support and are ready to assist in any way possible.

Sincerely,

JAMES D. STATON,
Executive Director.

THE SENIORS COALITION,
Washington, DC, January 26, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I wanted to take just a moment to thank you for introducing the Senate measure to repeal the Social Security Earnings Test.

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 of Representatives and will continue to work with the House Republican Conference now that the Contract With America addresses the earnings limit.

I am enclosing for your information our Issue Paper on the earnings limit, as well as my recent testimony to the Ways and Means Social Security Subcommittee. The Seniors Coalition is ready to assist you in any way possible to ensure the success of your measure. This issue is very important to our two million members and they love being asked to get involved with legislative issues.

Please feel free to contact may assistant, Kimberly Schuld at (703) 591-0663 if there is anything we can do to help.

Sincerely,

JAKE HANSEN,
Vice President for Government Relations.

WALT DISNEY WORLD CO.,
June 9, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR MCCAIN. We fully support your proposal to eliminate the Social Security Earning Limit for senior citizens age 65 to 69. Furthermore, we favor additional relief for senior citizens in the age group 62 to 64 who are faced with an even more stringent limit on their earnings.

In today's society, Social Security is a supplement to a senior's income which is traditionally pension and investments. Unfortunately, some must continue to work to maintain a quality of life that is becoming evermore expensive.

Our opinion is formulated by the following compelling issues:

Our nation is faced with a shrinking labor supply for one of the fastest growing sectors of the economy—the service sector. Many seniors are fully capable of and interested in filing these openings.

As stated in your fact sheet, we should not have a system that has built-in disincentives that inhibit seniors from working.

The current "cap" of $8.040 does not permit a senior in the 62-64 age group to work in a minimum wage ($4.25/hour) job for an entire year without incurring a penalty on the last 10% of their income.

Seniors represent a growing part of our population who possess skill and attributes that employers are seeking. Seniors offer experience and an excellent work ethic to an employer.

Also, in light of the health care reform issue that is on everyone's mind, by raising the earnings "cap," this will allow seniors to avoid the Catch-22 of not being able to work enough hours to qualify for health care at most corporations.

In conclusion, we believe that seniors should always be able to work in a minimum wage paying job full time (40 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 new ceiling.

Thank you for the opportunity to express our views on this important issue.

Sincerely,

DIANNA MORGAN.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, September 9, 1992.

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 (OAA) reauthorization. We believe that further delay in reauthorizing the Act is a disservice to the millions of seniors and their families who depend on vital OAA programs.

The National Council of Senior Citizens, comprised of five million seniors active in five thousand clubs and Councils, has made passage of the OAA reauthorization one of our highest priorities for this Session. The Council has historically supported a sound Social Security retirement test amendment has caused a yearlong delay in final passage of the OAA. The two issues should be separated now and support of S. 3008 is the best way of resolving this matter.

Inaction on S. 3008 will be the cause of further loss of resources and a weakening of the national commitment to meet the needs of older persons at risk. We trust that we can count on your vigorous support of S. 3008.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

COUNCIL OF JEWISH FEDERATIONS,
Washington, DC, July 23, 1992.

DEAR SENATOR: On behalf of the Council of Jewish Federations, I am writing to urge the immediate passage of the reauthorization of the Older Americans Act. S3008. Millions of older citizens depend on the programs funded in this Act for community and social services, nutrition programs, senior centers, legal assistance, homebound care and assistance, research and demonstration, and employment opportunities.

As a network of over 200 Jewish Federations and their affiliated social service agencies, we are charged with the responsibility for providing thousands of elderly people with a life of quality. The Older Americans Act, with its coordination between local, state, and federal agencies, enables us to do this.

The Older Americans Act, originally enacted in 1965, has been a framework for providing vital nutritional and social services to the elderly community for over 25 years. At a time when seniors are growing as a population, the Older Americans Act should not be pulled from them. By passing the Older Americans Act the Senate will move one step further along in the process necessary to ensure that the elderly may continue to receive the quality care they need.

We urge you to pass this critical legislation immediately.

Sincerely,

MARK E. TALISMAN,
Director.

OLDER WOMEN'S LEAGUE,
Washington, DC, September 9, 1992.

DEAR SENATOR: On behalf of the Older Women's League, I am writing to urge you to pass the Older Americans Act, S.3008, before Congress adjourns.

I cannot stress strongly enough how important it is to pass the Older Americans Act. The reauthorization of this legislation and its programs is critical to providing continuing 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 provisions attached to the OAA conference bill passed by the House of Representatives, we believe that these and other changes to Social Security should be dealt with in a more appropriate legislative 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.,
Washington, DC, September 9, 1992.

DEAR SENATOR: The National Council on the Aging, Inc. urges you to support for immediate Senate action to reauthorize the Older Americans Act, S. 3008.

Today, we are joining forces with many other national organizations to seek your help in passing a clean Older Americas Act.

For the past two decades, the OAA has provided vital services including congregate and 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 pass the reauthorization 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 THURSZ,
President.

NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING,
Washington, DC, September 9, 1992.

JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the members of the National Association of Area Agencies on Aging, I am writing to urge you to take immediate action to pass the Older Americans Act reauthorization legislation, S. 3008. Thousands of older Americans in Arizona and millions of elders 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 jeopardy. 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 level 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. Further delay will do a disservice to older persons who depend on Older Americans Act services. We, therefore, urge you to take the necessary steps to obtain immediate passage of this crucial legislation.

Sincerely,

CHERYLL SCHRAMM,
President.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Washington, DC, September 9, 1992.

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.

Today, 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, we fear that service 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.
Washington, DC, August 28, 1992.

DEAR SENATOR MCCAIN: The National Association of State Units on Aging urges your support for immediate 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 for nursing home residents, elder abuse prevention and similar, often life-sustaining, services to millions of low-income and frail older persons.

NASUA's members are the nation's 57 state agencies on aging, designated by Governors and state legislatures to represent and serve older persons in their states. They have tried to explain to older persons that these frustrating delays do not indicate a lack of congressional support for this program which is so important to them. However, their questions have turned to anger, their frustration to disillusionment.

Once again, we urge the Senate's immediate passage of 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,

DANIEL A. QUIRK,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 25, 1995.

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 examine the merits of the arguments for and against legislative action.

The National Committee welcomed the opportunity this Commission presented to adjudicate the merits of this long standing issue.

The Congress is to be congratulated for its efforts to bring this Commission to life.

This year, the leaders of both parties in both Chambers have made all of the eight Congressional appointments.

This month as a part of the Labor/HHS Appropriation Conference report, Congress appropriated $1.8 million so that the Commission can carry out its mandate and report back by the end of the year.

As soon as the President appoints his four members and designates a Chairperson, the Commission will proceed.

I hope that you will agree that the Notch Commission, when activated, will study the issue and note findings which will produce a recommendation. Please do your part to move this Commission into action.

Sincerely,

MARTHA A. MCSTEEN,
President.

THE RETIRED ENLISTED ASSOCIATION,
Alexandria, VA, January 14, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell SOB, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than 54,000 members of The Retired Enlisted Association (TREA) it is my pleasure to offer TREA's support to you in your efforts to repeal the Social Security Earnings Test.

We of TREA appreciate your willingness to address what we believe is a penalty imposed upon older Americans having a strong work-ethic.

Should you or a member of your staff have any specific tasking suggestions for this office on this issue, please don't hesitate to contact me.

Very respectfully,

JOHN M. ADAMS,
MCPO, USN (Ret.),
Director of Government Affairs.

Mr. DOMENICI. Mr. President, I understand this amendment is stacked now. We do not vote on it now. We go next to another Republican amendment. We had a change in what our next amendment would be. But the Democrats have been advised. This will be the Helms amendment. Senator HELMS is ready on the floor, and they have a copy of it on the other side.

AMENDMENT NO. 2965

(Purpose: To allow senior citizens to continue to choose their doctors)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2965.

On page 461, line 13, after the period, insert the following:

"(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice 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 permits payment to be made under the plan for covered items and services when obtained out-of-network by the Individual."

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

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 margin, that plan must also offer 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

choose the team of surgeons who performed my heart surgery.

The point is that all senior citizens enrolled in Medicare should have the same choice that I had. And the pending amendment will enable senior citizens to preserve their right to choose their doctors.

Most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professionals will perform their care and treatment. In reforming Medicare, Congress must make sure that senior citizens know their options and can choose their doctors and other medical providers instead of being required to accept somebody else's lineup of physicians and surgeons.

Mr. President, the Senate is considering major reforms to save Medicare and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt. We agree on that. Otherwise, the Medicare trust fund will be flat broke when the 21st century rolls around just a few years hence.

America's senior citizens—and I am one of them—depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure that they will not be forced to give up their right to choose their doctors. It is vital to their future security that our senior citizens retain this right. The power to choose will place senior citizens firmly in control of their health care.

Senior citizens may be enticed to join an HMO because they will gain coverage for prescription drugs and eyeglasses and hearing aids—coverages not presently provided by Medicare.

However, without some moderating legislation, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctors.

So, Mr. President, these are the reasons why I am introducing this amendment, to make sure that all Medicare-eligible Americans who choose to enroll in an HMO know their options of choosing the closed panel HMO or the point-of-service plan offered by the same insurance company.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a long-standing relationship. My amendment will enable women being treated for breast cancer to have more options when choosing a lower cost plan that will allow them to continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this amendment.

Point-of-service plans provide a safety valve to protect seniors who find themselves in the position of needing to see a doctor of choice. A point of service plan enables patients to see physicians and specialists inside and outside the managed care network. If seniors citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists.

Mr. President, CBO has given me repeated assurances that a built-in point-of-service feature—the technical term for freedom of choice—would not increase the cost of Medicare. In fact, in testimony before the Senate Budget Committee, CBO stated that "the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit costs to HMOs or to Medicare. . . ."

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there should be no increase in cost to the HMO. In fact, there could actually be a savings.

The fastest-growing health insurance product is a managed care plan that includes the point-of-service feature. In fact, in 1993, 61 percent of all HMOs offer a point of service option.

Building a point-of-service option into health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And my amendment, we can also preserve a basic American freedom to choose one's own doctor.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that at the expiration or yielding back of debate time on each amendment, the amendment be laid aside to consider the next amendment in order, and that when the next order of stacked votes begins, each amendment be voted on in the order in which it was offered.

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

The Senator from Nebraska.

Mr. EXON. Mr. President, I suggest the absence of a quorum and that it be charged to the 5 minutes on our allocated time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. DOMENICI. Mr. President, could you hold up on the quorum?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. EXON. Be glad to.

Mr. DOMENICI. Are we charging time because we have not given you this amendment?

Mr. EXON. We are having a great deal of difficulty. Since you have changed the order of offering amendments, our Senator 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 specialty, there was a split between the additional costs, if there were additional costs, of 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 market 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 that 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 pay 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.

My amendment 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.

So I commend 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's time 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. 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 having a great deal of difficulty with this shifting back and forth, trying to accommodate an awful lot of people. We do not mind accommodating people, but it is very difficult for us to make a determination on these things and get the proper people here the way we are receiving the amendments, or not receiving them, before they are introduced.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. DOMENICI. Now, I say to Senator EXON, I am willing to accommodate whichever way he would like. We are not ready with the amendment that we styled for, the Finance Committee amendment. That is being worked on now. I mean, that is just a matter of fact. We cannot bring it until it is done.

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 only be 10 out of the 17 that the Senator will give us?

Mr. DOMENICI. Yes. There are only going to be 10 that we will have 5 minutes on a side. Any that are left over go into the——

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.

Would 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 muddled we are. We are not muddled 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 to have Senator BROWN go next. And, I say to the Senator, his is an important 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 get 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 of them.

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 6 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 any Senators, half on the other side, half on ours, that might want to speak to the bill, and that it not be charged to anything, because we are getting very short of time and it is sort of combined—our fault for the time. So let us not charge it to anyone.

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

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The 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.

While there has been much debate focused 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 another year. 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. The reforms in this bill will give the States more control over critical entitlement programs that have become inflated with the Federal bureaucracy mismanagement of many years. 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 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 here 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 economic growth so we can balance the budget and create the jobs needed by the next generation.

The respected economic forecasting firm of DRI/McGraw Hill has studied our capital gains tax 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 600,000 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 this 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 down-sizing mode, small and medium companies are expanding.

The expanding companies are not the long established blue chippers. There is more risk involved 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.

To illustrate this dynamic, Mr. President, consider the following facts.

From 1969 to 1971, there were on average 510 new public offerings in this country per year.

From 1972 to 1976, when the effective capital gains rates jumped to just over 49 percent, only 145 new public offerings occurred on average each year.

When the effective capital gains rate fell to 20 percent between 1981 and 1986, the average annual new public offerings figure jumped to 577.

Between 1987 and 1992, when the capital gains tax rate jumped up again to 28 percent, the number of public offerings dropped to only 431.

While some growth in new company formations can be attributed to the fact that our economy was growing during those years, one wonders how much more it might have benefited if we had not increased the capital gains tax rate.

Obviously, there is a relationship between the capital gains tax rate and the rate at which new companies start and grow.

And, because these new and expanding companies are fueling most of our job growth—more than 70 percent of all new jobs are in small business—we can see that lowering the capital gains tax rate will increase the number of jobs in this country.

Mr. President, DRI has made three other projections on chart 1.

Because of the capital gains provisions in this bill, we should experience a 4.1 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 services 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 3. Note that as our capital stock grows, real wages increase almost in lockstep. 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 in the DRI projections contained in chart 1 might not seem like 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 respond to 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.

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 $89 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 $269 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 estimate.

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 increase 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 5 shows the foregone realizations that we 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 Poors stock index [S & P 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 sharpest increase in such revenues since World War II.

Annual capital gains tax receipts grew from $9.1 billion in 1978 to $26.5 billion in 1985.

In other words, at the same time we experienced a 59 percent decrease in the top capital gains tax rate, our annual 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 punitively 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

people whose conduct is critical to the attainment of our economic goals just will not work.

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 $8 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 revenues 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, 2,000 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 create wealth for oneself by investing one's sweat, one's brains, and taking 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 included in the RECORD.

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

September 1995 DRI/McGraw Hill study projects the specific economic benefits that will result from a 50 percent capital gains deduction as follows:

150,000 new jobs created each year from 1997-2000.

4.1 percent increase in capital stock.

5.1 percent increase in fixed investment over 10 years.

1.2 percent increase in labor productivity.

8 percent reduction in the cost of capital.

1.4 percent increase in GDP over 10 years.

$12 billion increase in federal tax revenues over 10 years.

Who Generates the New Jobs?

Answer: New Companies and Those in the Early Stages of Expansion:

Small Companies: Added 1.6 million net jew jobs in 1993: and 25% job growth per year from 1989 to 1993.

Large Companies: Industries dominated by large companies had a net decrease of 200,000 jobs in 1993; and Fortune 500 companies lost about 3% of their jobs from 1989 to 1993.

Comparative capital gains rates

	Percent
United States	28
Japan	(1)
France	18.1
Germany	0
South Korea	0
Taiwan	0
Singapore	0

(1) Lesser of 1 percent of gross sale price of 20 percent of gain.

U.S. AFFILIATED INSULAR AREAS

Mr. AKAKA. I would like to engage in a colloquy with the chairman and ranking 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 hope and 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 could 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 Act of 1985, which obligates the United States to undertake radiation mitigation measures and to resettle 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 104(e)(6) of Public Law 99-239 authorizes compensation to assist in offsetting 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 estimated $30 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 renovation or 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 by section 702 of Public Law 94-241, the Covenant to Establish the Commonwealth of the Northern Marianas. 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 to be met? Fortunately, the administration proposed a solution which would allow the appropriations committees to avoid the nearly impossible task of meeting these needs 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 meet 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 Conferees on Interior Appropriations, who could now also agree to eliminate discretionary funding to meet these needs.

Mr. President, 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 Samoa, fulfill our commitment 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. 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 of these issues for many years and 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 Energy and Natural Resources, whether 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:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, DC, July 25, 1995.

Senator SLADE GORTON,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to you concerning the funding for the Department of the Interior's responsibilities for territories and insular areas, including the freely associated states. We are concerned over the action taken by the House in eliminating funding for staffing and for very important programs, such as technical assistance, operations and maintenance improvement, insular management control, and disaster assistance. Each of these programs, while relatively small, have proved to be of critical importance in assisting the various island governments. We understand that both the Departments of Defense and the Interior have also expressed their concern over this action.

The elimination of the salaries for all staff is perplexing. Including the FY '95 appropriation, there are over $900 million in funding for the territories and freely associated states that the Department of the Interior is responsible for. The Department has reorganized and placed responsibility under the Assistant Secretary for Policy, Management and Budget. As part of that reorganization, the core permanent staff has been reduced from 45 to 25. We believe that the staffing level should be kept to the minimum necessary to enable the Secretary to fully discharge his responsibilities. We have strongly suggested that they give serious consideration to using at least a portion of the savings to obtain details from other agencies to enhance the Department's ability to deal with problems in the islands and to reduce the need for permanent staff. We expect that further adjustments will be made in the future as the responsibilities of the Secretary change. The expected efficiency and greater emphasis on technical and financial management assistance to the areas will be completely frustrated by the House action.

We do not see how the reductions proposed by the House can be supported. As you may be aware, the Senate has passed S. 638, which in part would redirect the permissible uses of that portion of the current entitlement for the Northern Marianas not needed to meet the 1992 Agreement on future funding so that the excess could be used for long-term infrastructure planning. Those funds would also provide the ability to meet United States responsibilities in areas such as assisting in the resettlement of Rongelap. In part, the Committee felt that this action would increase the flexibility of the Appropriations Committee to address critical needs such as financial management. Enactment of that provision would also provide a significant portion of the infrastructure funding for American Samoa needed to meet critical health and safety concerns. Given the increasing pressures on the budget, we see no alternative other than reallocation of the excess CNMI funding if essential needs are to be met.

Accordingly, we urge you to reject the action taken by the House in eliminating funding for staff and for essential programs for the insular areas. If you agree with the action taken by the Senate with respect to the use of excess funding for the Northern Marianas, we suggest that you seriously consider adopting such a provision as part of the Appropriation measure.

Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority Member.
FRANK H. MURKOWSKI,
Chairman.

Mr. MURKOWSKI. Let me also reassure my colleague of my strong desire to see that our agreement, as set forth in the Appropriations conference report, not be undermined by the House reconciliation proposal which contradicts that agreement.

Mr. AKAKA. I thank the Chairman for his reassurance. Mr. President, finally I would like 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 debt for every man, 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 don't change our spending habits, that deficit will rise to $256 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 $245 billion. Of

these cuts 84 percent go to those making less than $100,000 and 70 percent go to those making less than $75,000. These tax cuts are real, significant tax relief for the families of America. For example:

A $500 per child under 18 tax credit for couples earning $110,000 or less annually.

20 percent credit of interest paid on student loans up to $500 per year, per borrower, for couples with an adjusted gross income of $60,000 or less.

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 indexing for inflation and creating a $2,000 IRA for homemakers.

Capital gains reform that deducts 50 percent of the gain for individuals that have owned property at least 1 year, which effectively lowers the tax rate to 19.8 percent A reduction of the corporate rate on tax gains to 28 percent. Both changes are effective 10-13-95.

Estate tax reforms that will allow more Americans to continue operating family owned business after the death of 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 $3.5 million is reduced by 50 percent.

These tax cuts are both responsive and responsible solutions to the excessive taxation that is stealing the financial independence from American families 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 obviously flawed and damaged beyond simple 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 marketplace, and therefore the people, to shape the future of health care.

We all know the level of political rhetoric which has surrounded the issue of Medicare reform. The fact remains, 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 system. Simply delaying the pending bankruptcy 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 Republican Medicare reform package does just that.

The contents of the Medicare reform proposal have been significantly misrepresented. I believe it is important to point out what the measure reported out of the Finance Committee does.

The first thing the plan does is provide 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, whether they want it or not. Until recently, only a few were even allowed to choose managed care options instead of fee-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 sacrificed. 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 surrounding the Medicare Program, they have no choice. This must simply change.

So what kind of choice will seniors get to make? Under the Republican proposal they can stay enrolled in the current Medicare program. Those wishing to go beyond the present system may choose from traditional fee-for-service indemnity health plans—(just like many of them had before retirement), coordinated care plans, and high-deductible health plans with medical savings accounts, also known as MSAs. In addition, the Medicare reform plan allows future enrollees to select from yet unforeseen health options as they become available, provided the plans meet minimum Federal standards. This, I would say to my colleagues, is the kind of choice most Americans already have. Do our senior citizens deserve any less?

The Medicare reform plan we are debating 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 enforcement officials to combat fraud. The bill also instructs the Secretary of Health and Human Services to exclude individuals convicted of health care fraud from receiving payments under Medicare and Medicaid. Furthermore, the reform package would establish a new criminal statute, with specific criminal penalties, and would also increase fines and civil penalties for health care fraud.

With expanded choice and reduced fraud, one must wonder why there is so much opposition to our Medicare reform plan. I believe it stems from fear based on misinformation. In an attempt to set the record straight, I would like to take this opportunity to point out what the reform package does not do.

First, this proposal does not cut Medicare. Under the Republican plan, Medicare will continue to grow by 6.4 percent each year. Over the next 7 years, expenditures for Medicare will grow by nearly $2,000 per recipient. Only in Washington could a $2,000 increase in payments per person be labeled, by some, as a cut.

The GOP plan also does not force people to give up Medicare or to join managed care organizations. As I stated before, the plan offers seniors a choice. It lets them, rather than the Government, decide how one will receive health care. I believe this Nation's senior citizens can make those choices.

In addition, the spending reductions included in the Medicare reform package are not, and I will repeat this, are not, related to a tax cut. The bill explicitly states that savings generated from reforming the Medicare system may not be used for any purpose other than saving and preserving the Medicare system. Whether or not we adopt any tax cuts, we need these savings to preserve the system for current and future recipients.

Finally, to those who say smaller savings would be sufficient, I would ask them to define "sufficient." While the Democrat's proposal would prevent the system from going bankrupt in 2002, as it is currently on a pace to do, it would allow the system to fail only 2 years later. This attitude of "put it off until it is someone else's problem" is precisely why the United States is in the economic mess it is. As the Medicare trustee's said, "prompt, effective, and decisive action is necessary." Simply delaying the inevitable is not a solution.

I was pleased to note that my hometown newspaper, The Idaho Statesman, shares this view. In a recent editorial the newspaper stated, "Without enormous changes like those proposed by the GOP, the program will go broke soon after the turn of the century." The editorial went on to say, "somebody finally has the courage to begin fixing what's been broken for a long time."

Since before I first came to the Senate, Idahoans have told me they want Congress to face the important issues head on, to try to set this country on solid economic footing. The Medicare reform plan which the Senate Finance Committee approved does just that. It will not be easy, and it will not be painless, but it will achieve our goals. It will correct the financial difficulties the program faces, bring the efficiencies of the market into play, and give senior citizens the freedom to choose.

The Idaho Statesman's editorial ended with the following statement, "The numbers clearly show that Medicare, which served one generation well, cannot serve the next one without significant reform." The Republican package is just that, significant, and serious, reform.

The Finance Committee has also used this bill as a vehicle to redirect and energize the earned income tax credit. The EITC is a well-conceived and well-intended program designed to encourage work over welfare for low-income families. Unfortunately this worthy intent has been lost in what has become the fastest growing entitlement program we have. Just since 1986 it has grown from 7 million families receiving an average of $281 to 18 million

families receiving an average of $1,265. The EITC no longer benefits only families with children but provides benefits to both individuals and families without children.

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 with children. We 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.

S-CORPORATION REFORM

Mr. PRYOR. Mr. President, as many of my colleagues are aware, there are a number of tax issues of significant importance to the 1.9 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 simplifaction—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 to note 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 competive 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 simplification 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 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; and

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 in conference. 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 suggest the absence of a quorum.

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.

What a 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 increase in history, contained no 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 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 vote yes for reducing the deficit. I vote yes for controlling the growth of Government spending. I vote yes for our families by reducing their tax burden. I vote yes for restoring the economic future of our Nation. Therefore, I will vote yes for this bill and encourage my colleagues to do likewise.

Mr. EXON. 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. 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 and, indeed, his stamina.

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 reductions 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 him.

I agree with what Senator THURMOND said; we have to vote yes on deficit reduction. I believe that. I believe we have to vote yes on cutting spending. I believe we have to vote yes on reforming programs which have heretofore 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. 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 timeframe.

The dilemma that I face is like 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 has to be 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, which is where 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 ought to do it within a 7-year timeframe, that we should support our chairman in his efforts for what he has done to produce that.

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 called for under the previous order 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.

AMENDMENT NO. 2969

(Purpose: To provide that the $1,000,000 limit on deductibility of compensation paid to an employee is extended to employees of all businesses, and to use the resulting revenues to reduce the Social Security earnings penalty)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG, proposes an amendment numbered 2969.

Mr. BROWN. 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 8 of subtitle I of title XII, insert the following:

SEC. . $1.000.000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYERS OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking "publicly held corporation" in paragraph (1) and inserting "taxpayer (other than personal service corporations)",

(2) by striking "covered employee" each place it appears in paragraphs (1) and (4) and inserting "employee", and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

Mr. BROWN. Mr. President, this is a very straightforward amendment, and it deals with an area this Congress legislated on in 1993.

In 1993, Congress passed a tax provision that placed a limitation of a million dollars on the deductibility for publicly held corporations. The limit of a million dollars was on the amount they could deduct on the salary of an employee of that corporation.

I might say, just in retrospect, that statute had other provisions. In other words, it was possible to earn over a million dollars and have it deductible but only if it was incentive pay or fit into other provisions. So it is not an absolute limitation. But that limitation, in this Senator's view, was somewhat limited and deficient. It was deficient in that it was not applied evenhandedly, fairly; it was not applied to everybody who had a salary in excess of a million dollars; it was only applied to a special few. So the suggestion of the first half of this amendment is simply to be evenhanded and apply that same limitation to employees of all businesses. Again, the tax is on the business, not on the employees.

Mr. President, I might say two important things here. We have not changed any of the exceptions to this provision. In other words, included in it was a provision that allowed incentive payments, and so on. None of that has been changed.

In addition, included here is a provision that prohibits them from being retroactive. That is, if you have an employment contract signed prior to today, that is valid and not affected by this provision. But it does raise, according to the preliminary estimates we have, $800 million. That $800 million, according to the amendment, is then used to ameliorate the impact of the penalty on Social Security tax.

As I think Senators are well aware right now, above the threshold level a very high tax is placed on Social Security recipients, many of whom are not wealthy at all, but are low-income or middle-income and struggling, and they are put into a very difficult penalty situation. So this is a net, even with regard to tax revenue to the Federal Government.

What it does is take that $800 million that will be raised and use it to offset the earnings penalty. It will not eliminate the Social Security earnings penalty. My guess is it will only have a small affect on it. It will only increase the threshold a small amount of money. But that amount of money will go to working men and women, who retire without adequate resources and need that money and need to work to make their household expenses fit.

In my view, it is an excellent transfer. It applies even tax philosophy to those who receive over a million dollars in compensation. It provides evenhandedly and uses the money to ameliorate that Social Security earnings penalty that is so burdensome for so many working people.

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, we have reviewed the amendment and checked it with the Finance Committee sources. I am prepared to yield back the full 5 minutes in order to move this thing along. Once again, I would like to take the opportunity to thank the chairman of the committee for his diligence and consideration, in allowing a 15-minute discussion period when we worked this out.

Let me say this. We have unnecessarily delayed the process here, though, because both sides have not been as forthcoming as I think we

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 PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

AMENDMENT NO. 2970

(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. Parliamentary inquiry, Mr. President. How much time do we have?

The PRESIDING 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 PRESIDING 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 2970.

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 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 take a truly comprehensive approach to combatting this bilking of the taxpayers and our elderly.

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 every thing we can. The taxpayers and the elderly deserve no less.

My amendment, cosponsored by Senators GRAHAM and BIDEN, both of whom who have worked hard to tackle this problem, makes a number of important changes. It requires Medicare within 6 months must 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? Oxygen—Medicare spends $3,600 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 fraud 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 from Philadelphia 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. Our bill 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 PRESIDING 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 for addressing 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.

For the past several years, we 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 dilutes some of the $4.2 billion in savings.

One of the justifications for persuading the Finance Committee to include the health care fraud bill that I had authored was to get some savings. CBO now scores it at $4.2 billion. This at least raises a question as to whether or not we have diluted that and it calls into question in terms of how much we will save.

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 the provider groups to agree. This has been 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 compelled to rise in opposition 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, because I say to my friend from Maine, the CBO—which I 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 reduce the paperwork by having one claim form. We required the competitive bidding and we prohibit the Medicare payments for unnecessary things like personal use of automobiles, tickets to sporting events, 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 accord with 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 is a giant step in the right direction—saving taxpayer money, urging us toward a balanced budget, and striving for greater efficiency.

However, the amendment is based on a concept both necessary and controversial. This amendment 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 under this amendment.

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, but I want to be sure that we are doing everything we can to make this transition survivable for small business.

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.

There 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,

Washington, DC, September 29, 1995.

Re H.R. 2389: "Safeguarding Medicare Integrity Act of 1995."

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the "Medicare Preservation Act." We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

A voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from qui tam suits under the False Claims Act (but not waiver by the Secretary of sanctions);

Minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based statutes, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

1. MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the "knows or should know" standard for the mental element of the offense, Congress chose a standard which is well defined in the *Restatement of Torts, Second,* Section 12. The term "should know" places a duty on health care providers to use "reasonable diligence" to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the "should know" standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department

of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term "should know" in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with "deliberate ignorance" of false claims or if they act with "reckless disregard" of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use "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 proposes an increase in the amounts of most CMPs which mnay be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

2. MAKING THE ANTIKICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT THE SIGNIFICANT INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

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 for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc, paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises 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" 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, if enacted it would threaten the Government's ability to prosecute all but 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. *Greber*, 760 F.2d 68, 69 (3d Cir. 1985) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also: *United States* v. *Kats*, 871 F.2d 105, 108 (1989); *United States* v. *Bay State Ambulance*, 874 F.2d 20, 29-30 (1st Cir. 1989).

The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care industry requires the interpretation adopted by Greber and its progeny. To 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, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony about what the defendant said to business associates or potential customers, etc. These types of evidence are rarely clear about the purposes and motivations of the defendant. 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 scheme participants. Documents are "pre-sanitized" by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has a difficult task to prove beyond a reasonable doubt that even one purpose of a payment is to induce referrals.

If the Government had to prove that inducement of referrals was "the significant" reason for the payment, many common kickback schemes would be allowed to proliferate. In today's health care industry, very few kickback arrangements involve the bald payment of money for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment serves one or more "legitimate purposes." For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some payments to referral sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide use of space incorporate some inducement to refer in the lease rates. In all of these examples, and countless others, it is impossible to quantify what portions of payments are made for nefarious versus legitimate purposes.

Where the defendant could argue that there was some legitimate purpose for the payment, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant actually had another motive that was "the significant" reason. For the vast majority of the present-day kickback schemes, the proposed amendment would place in insurmountable burden of proof on the Government.

3. CREATION OF AN EASILY ABUSED EXCEPTION FROM THE ANTI-KICKBACK STATUTE FOR CERTAIN MANAGED CARE ARRANGEMENTS

Background: There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as most health maintenance organizations (HMOs) doing business with Medicare, consist of providers who assume financial risk for the quantity of medical services needed by the population they serve. In this context, the incentive to offer kickbacks for referrals of patients for additional services is minimized, since the providers are at risk for the additional costs of those services. If anything, the incentives are to reduce services. Many other managed care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In the fee for service system, the payer (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad protection from the anti-kick 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 lack of definition of these terms would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is a "disease management program?" Does not that term include most of health care?

Nefarious organizations could easily escape the kickback statute by simply rearranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape liability by establishing some device whereby the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least theoretically). Then, the organization could pay blatant kickbacks for every referral with impunity.

If the concern is that the kickback statute is hurting innovation, as observed above, there is now an explosion of innovation in the health care industry, especially in managed care. No one in Government is suggesting that HMOs or preferred provider arrangements, etc., formed in good faith, violate the kickback statute. There has never been any action against any such arrangement under the statute.

4. INAPPROPRIATE EXPANSION OF THE EXCEPTION TO THE ANTI-KICKBACK STATUTE FOR DISCOUNTS

Background. Medicare/Medicaid discounts are beneficial and to be encouraged with one critical condition: That Medicare and/or Medicaid receive and participate fully in the discount. For example, if the Medicare reasonable charge for a Part B item or service is $100, Medicare would pay $80 of the bill and the copayment would be $20. If a 20 percent discount is applied to this bill, the charge should be $80, and Medicare would pay $64 (80 percent of the $80) and the copayment would be $16. If the discount is *not* shared with Medicare (which would be improper), the bill to Medicare would falsely show a $100 charge. Medicare would pay $80, but the copayment would be $0. This discount has not been shared with Medicare.

Many discounting programs are designed expressly to transfer the benefit of discounts 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 as part of a bundled payment), if the facility refers to the lab its separately billed Medicare lab work, for which no discount is given. The lab calls this a "combination" discount, yet is a discount on some items and not on others. Another example is where ancillary or noncovered items are furnished free, if a provider pays full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a "free" adult diaper. Medicare has not shared in these combination discounts.

H.R. 2389 Proposal. Section 202 would permit discounts on one item in a combination to be treated as discounts on another item in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissable for a supplier

to offer a discount on a combination of items or services, so long as every item or service separately billed to Medicare or Medicaid receives no less of a discount than is applied to other items in the combination. If the items or services separately billed to Medicare or Medicaid receive *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 more advice on the anti-kickback statute than is provided regarding any other criminal provision in the United States Code.

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 1987, Congress rejected calls to require advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue "safe harbor" regulations describing conduct which would not be subject to criminal prosecution or exclusion. See Section 14 of Public Law 100-93.

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. In addition, the OIG has issued six general "fraud alerts" describing activity which is suspect under the anti-kickback statute. Thus, the Government gives providers 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 (section 1128B(b) of the Social Security Act), as well as all other criminal authorities, civil monetary penalty and exclusion authorities pertaining to Medicare and Medicaid. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requesters a user fee, but there is no provision for this fee to be credited to HHS. Fees would therefore be deposited in the Treasury as miscellaneous receipts.

Major problems with anti-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 would be impossible for HHS 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 requester already knows what their intent is.

None of the 11 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 have to disprove this defense 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 the bill would go to the Treasury, not to HHS. Even if they did go to HHS, appropriations committees tend to view them as offsets to appropriations. There are no estimates of number of likely requests, number of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural and program changes. The possible result of the bill is a diversion of hundreds of anti-fraud workers to handle the advisory opinions.

For the above reasons, DOJ, HHS/OIG and the National Association of Attorneys General strongly oppose advisory opinions under the anti-kickback statute, and all other intent-based statutes.

6. CREATION OF TRUST FUND MECHANISM WHICH DOES NOT BENEFIT LAW ENFORCEMENT

Background: In our view, the most significant step Congress could undertake to reduce fraud and abuse would be to increase the resources devoted to investigating false claims, kickbacks and other serious misconduct. It is important to recognize that the law enforcement effort to control Medicare fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and abuse, and Medicare expenditures continue to grow substantially. Yet, the staff of the HHS/OIG, the agency with primary enforcement authority over Medicare, has declined from 1,411 employees in 1991 to just over 900 today. (Note: 259 of the 1,411 positions were transferred to the Social Security Administration). Approximately half of these FTE are devoted to Medicare investigations, audits and program evaluations. As a result of downsizing, HHS/OIG has had to close 17 OIG investigative offices and we now lack an investigative presence in 24 States. The OIG has only about 140 investigators for all Medicare cases nationwide. By way of contrast, the State of New York gainfully employs about 300 persons to control Medicaid fraud in that State alone.

Ironically, the investigative activity of OIG pays for itself many times over. Over the last 5 years, every dollar devoted to OIG investigations of health care fraud and abuse has yielded an average return of over $7 to the Federal Treasury, Medicare trust funds, and State Medicaid programs. In addition, an increase in enforcement also generates increased deterrence, due to the increased chance of fraud being caught. For these reasons, many fraud control bills contain a proposal to recycle monies recovered from wrongdoers into increased law enforcement. The amount an agency gets should not be related to how much it generates, so that it could not be viewed as a "bounty." The Attorney General and the Secretary of HHS would decide on disbursements from the fund. We believe such proposals would strengthen our ability to protect Medicare from wrongdoers and at no cost to the taxpayers. The parties who actually perpetrate fraud would "foot the bill."

H.R. 2389 Proposal: Section 106 would create a funding mechanism using fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bring others to justice. Instead, all the funds would be used only by private contractors for "soft" claims review, such as, medical and utilization review, audits of costs reports, and provider education.

The above functions are indeed necessary, and they are now being conducted primarily 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 will not result in any more Medicare convictions and sanctions.

In summary, H.R. 2389 would:

Relieve providers of the legal duty to use reasonable 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 readily be exploited by those who wish to pay rewards 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 opinion writers; and

Create a fund to use monies recovered from wrongdoers by law enforcement agencies, but the fund would not be available to assist the law enforcement efforts: all the monies would be used by private contractors only for "soft" payment review and education functions.

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.

Thank you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

PRESS CONFERENCE OF ATTORNEY GENERAL JANET RENO ON HEALTH CARE FRAUD, OCTOBER 18, 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 conduct against 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 have indicated that law enforcement should not be criminally prosecuting health care providers who engage in fraud. I just don't understand that, for 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 immune from criminal prosecution because they commit a crime in an office, in a boardroom, in a laboratory, rather than in the street. White collar crooks who pay or take 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 those strengthened provisions.

Particularly at this time, we need to preserve every Medicare trust fund dollar; we cannot allow Medicare money to be spent on bribes paid to doctors and others as inducement for the referral of Medicare patients. Even more importantly, we cannot allow financial inducements to corrupt the professional judgment of medical providers—providers who Americans have been taught to trust. Decisions which physicians make day in and day out—whether and where to hospitalize a patient, what laboratory tests to order, what surgical procedure to perform, what drug to prescribe, and how long to keep 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 one purpose of the kickback was to induce the referral of health care business. The language of the House bill would require that the Government prove that the payment was made for the significant purpose of inducing the referral. That's language that would immunize arrangements that are dressed up to disguise the payor's motive. This would seriously undermine our efforts and it would place beyond the reach of prosecution many kickbacks which are calculated to induce referrals and which adversely affect the judgment of medical providers. From the perspective of Federal law enforcement and, I believe, from the perspective of patients who seek their doctors' advice, this result is simply not acceptable.

Ultimately, this isn't a choice between prosecuting violent crime and prosecuting health care fraud. Both of them do real harm to real people and both deserve vigorous enforcement action. I hope that the House legislation will support, not undermine, our efforts.

QUESTION. Why are the Republicans gutting the statutes?

Attorney General RENO. You would have to ask them, but I have heard it said that they said we shouldn't prosecute these cases while we have robbers and murderers on our streets. And my response is we need to do both with vigor.

QUESTION. Secretary Shalala, what's your theory about why this is happening up in the House?

Secretary 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 need 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 or letting people rip off the program.

QUESTION. [inaudible] uniform deadly health policy that you approved yesterday. Tell us, do you think it will clear up some of the confusion left over from the Ruby Ridge damage?

Attorney General RENO. Again, I think this is an important step forward because for the first time, all of the major law enforcement agencies in the Federal Government have joined together in a uniform policy. And 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?

Attorney General RENO. This policy will—the real change.

QUESTION. What's the difference from the way it would be.

Attorney General RENO. DIFFERENT DEPARTMENTS HAD DIFFERENT PROVISIONS AND THIS CONSOLIDATED IN ONE, I THINK, A VERY FIRM STATEMENT ON THE POLICY OF BOTH THE TREASURY AGENCY AND THE DEPARTMENT OF JUSTICE.

QUESTION. What tangible impact do you expect the changes to have on the deadly force policy.

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. Secretary Shalala, will you ask the President to veto this bill unless this is modified?

Secretary 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 THESE PROVISIONS IN AN ADDITIONAL COMMENT FOR THE PRESIDENT, ADVISING HIM ON THE BILL. BUT THESE ARE SIMPLY UNACCEPTABLE AND I THINK THAT'S OUR POINT TODAY.

QUESTION. Are all these are provisions for Medicare and Medicaid violations only or do some of them include kickback statutes that cover general medical operations, not Government programs?

Attorney General RENO. No, it covers 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?

Secretary SHALALA. I think the cases that we gave you as an example we would probably not be able to prosecute.

Attorney General RENO. If I can prove one purpose is to induce the referral of Medicare business, that's one thing. But to have to prove that the significant purpose is to induce the referral of Medicare business significantly heightens the standard. I think it produces confusion as to what is meant by significant. And I think it undermines what the kickback statute is trying to prevent.

Any time you bribe someone to get business you are impairing or presenting a chance for the impairment of judgment. That should never—the fact that you get money for referring business, particularly medical business, should never be a factor in the physicians' or the providers' judgment. It should be what is in the best interest of that patient, what is the most cost-effective medical treatment. And a significant purpose or one purpose, it is critically important that there not be bribery to secure Medicare business.

QUESTION. How does that, in turn, make it harder to prosecute?

Attorney General RENO. I might be able to prove that it is one purpose, but having to prove that it is the significant purpose heightens the standards of proof.

Secretary SHALALA. In fact, the Inspector Generals—all of them have signed on to a letter to the Hill that basically said it would bring those kinds of cases to a standstill because it raises the bar pretty high.

QUESTION. It sounds like it would make it pretty easy for those involved in the kickbacks to get around it, doing something illegal by masking and not making——

Attorney General RENO. All they would have to do is disguise it and say it's for this reason or for that reason or it has something to do with the patient's care and I might not be able to prove that it is a significant purpose. It has that chance of disguising what is really a bribe.

QUESTION. Attorney General Reno, on another subject, what is the Justice Department's position on the U.S. Sentencing Commission's guidelines on crack cocaine versus powder cocaine and the pending legislation that deals with that?

Attorney General RENO. We have said and made clear that prosecutors, police officers, and most of all, the residents of communities across this nation that have been impacted by crack cocaine, understand that the marketing and distribution systems and nature of the drug have had a terrible, terrible impact on many neighborhoods and that its impact reflects the need to have some distinction in the manner in which crack is treated. But the Justice Department has made clear that it favors a review of the 101 ratio, to adjust it, to make it fairer.

It is our hope that legislation that is pending now which rejects the one-to-one ratio because of the impact on communities across this nation also would provide—ask the Sentencing Commission to study it again in this coming year to come up with a recommendation that reflects the impact of crack on the community but also achieves fairness.

QUESTION. What would you suggest would be a good ratio?

Attorney General RENO. We are going to be reviewing with all concerned—as part of—I serve as part of the ex officio members of the Sentencing Commission—that balance.

QUESTION. Secretary Shalala, given that the [inaudible] is taking a completely different approach, isn't there every reason to believe it will be worked out in Congress?

Secretary SHALALA. We long ago have learned not to depend on one House versus another House. I think we are pointing the contrast out between this House bill, which is going to the floor tomorrow, and our ability to work in a bipartisan manner with the Senate. Obviously, we hope in conference we will be able to work it through, but we want to make it very clear that what the House is doing is unacceptable. And most members of Congress probably don't know what's in the bill, since it was moved so quickly.

QUESTION. Have you considered asking the American Medical Association to join you in urging the Republicans to change this?

Secretary SHALALA. There are numerous organizations that have now spoken out on this issue. Most of them have been the State Attorney General, for example, and the Inspector Generals. The American Medical Association, with a handful of important exceptions, have joined us on all issues that are related to fraud and abuse because they are absolutely opposed to, number one, having to police themselves; and number two, I think they very much favor anything we can do to help them to clean up the profession.

QUESTION. So where exactly are they on this?

Secretary SHALALA. You will have to go ask them.

QUESTION. Are you talking about the American Medical Association or American medical associations of various types?

Secretary SHALALA. Well, of various types.

QUESTION. Not the American Medical Association?

Secretary SHALALA. I don't know the position of the AMA at this moment.

QUESTION. [inaudible.]

Secretary SHALALA. Well, the self-referral changes that are being referenced is whether

a doctor can own a laboratory and then refer his own 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 45 percent 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 pinpoint, related to this?

Attorney General RENO. One of the cases—where is Jerry Stern—is NME case of last year. Our recovery in that case was $379 million and that was based in significant part on this provision that we are trying to defend today in terms of kickbacks.

QUESTION. Do you have any idea what would have happened had the law been [inaudible]?

Attorney General RENO. I think, again, you can't quantify it. But any time you have to prove that some—rather than just one purpose, that it was the significant purpose, you raise the bar real high. Thank you.

(Whereupon, at 1:55 p.m., the press conference adjourned.)

Mr. DOMENICI. Mr. President, could I ask if it will be in order to ask for the yeas and nays or to table 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.

AMENDMENT NO. 2971

(Purpose: To eliminate corporate welfare in Federal programs)

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. FEINGOLD, Mr. THOMPSON, Mr. KERRY, and Mr. FAIRCLOTH, proposes an amendment numbered 2971.

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 Progressive Policy Institute and the Cato 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. They are the Marketing Promotion Program, the advanced light water reactor, Forest Road Construction Program, highway demonstrations, military export sales, broadcast spectrum auction, Export/Import Bank, the B-2 bomber, Travel and Tourism Administration, sub- and supersonic 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?

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. A copy of the amendment, I understand, has been delivered to the Senator from West Virginia. I certainly understand his frustration if he did not have a chance to see the amendment.

Mr. President, continuing—sub- and supersonic research; terminates the NASA program which conducts aircraft design activities, which can be undertaken by the private sector; oil and gas research and development; rural electric utilities service.

Mr. President, there is nothing new about these programs. They are items we have been discussing on the floor of the Senate for many years. They each have one thing in common; in a time of fiscal necessity, we can no longer afford them.

We are considering historic legislation to place the Federal budget on a 7-year path toward balance and to reform unsustainable entitlement 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, clearly not required Federal funding in order to continue.

We owe a debt of gratitude to the Cato Institute and Progressive Policy Institute. Although they represent different ideological perspectives, they joined together to identify corporate welfare programs and to articulate the destructive role that they play in the Federal budget and the economy.

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 most spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential 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 senior citizens, children, and working 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 provisions 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 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 to provide 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 individuals 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 annual review during the appropriations process or during reconciliation. Once enacted, they can go on forever, with no effective oversight by Congress.

The Commission we are proposing will examine all existing tax subsidies and make recommendations to Congress that will be subject to 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 on this legislation is part of a longer-term initiative to insist on congressional scrutiny of all Federal 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, I find it hard 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 equally 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 to cut billions of dollars, if it does prevail, I will 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 5 minutes.

Mr. ROCKEFELLER. Mr. President, I appreciate the action of the ranking member of the Budget Committee.

This 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 be many, many things.

It starts out with the elimination of the Market Promotion Program for agriculture, I think. It appears to be part Agriculture, part Finance, part Commerce Committee. It gets into the termination of the Advanced Light Water Reactor Program. I am thoroughly unqualified to review that. It talks about timber access roads. That is an Energy Committee matter. It talks about United States Travel and Tourism, USTTA. That is something I strongly support. Other Members may not. I suspect the Senator from Arizona does not.

There is a private sector funding for certain research and development by NASA relating to aircraft performance. That is the formal title. What that means I have absolutely no idea, and I have no way of finding out in the next 2 or 3 minutes.

There are many other things—the recoupment of certain Department of Defense costs for equipment sold directly by contractors to foreign countries and international organizations.

So, my plea would be for all my colleagues to take this 21-page amendment, between the time now—having no position on it, as would be my recommendation to my ranking member on the Budget Committee—and the time that we vote, and Senators make up their minds as best they can.

I am absolutely unable, having had this for a period of 2½ minutes, to make heads or tails of it, since it is many things and, I suspect, many things to many people. This is not, it strikes me, in terms of process, one of the Senate's finer moments.

The PRESIDING OFFICER. The Senator from Nebraska.

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. I thank the Chair.

Mr. DOMENICI. Does Senator MCCAIN have any additional time?

The PRESIDING OFFICER. The Senator has 51 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 his side of the aisle obviously are aware of it.

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. Is there any time?

The PRESIDING OFFICER. There is a minute and 40 seconds available to the Senator from Nebraska.

Mr. EXON. We have 40 seconds left.

The PRESIDING OFFICER. A minute and 40 seconds.

Mr. EXON. I am prepared to yield that back in a moment.

Mr. MCCAIN. The Senator from West Virginia——

Mr. EXON. I see the majority leader in the Chamber. Is he seeking recognition?

Mr. DOLE. No.

Mr. EXON. I yield back the remainder of our time.

I thought Senator ROCKEFELLER was finished.

Mr. ROCKEFELLER. In responding to the Senator from Arizona and what I am sure is a very good-faith—I know 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. Is there a sufficient second? There appears to be a sufficient second.

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 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. I thank the Chair.

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

point of order at this point and we move to waive the point of order, or does that take place at the time of the vote?

Mr. EXON. I simply say we are looking at this. I do not know whether we are going make a point of order against this or not.

Mr. McCAIN. I thank the Senator.

Mr. EXON. We are simply reserving the right to do that at a certain time, and I will not give that up at this juncture.

The PRESIDING OFFICER. The Senator has that right.

Mr. DOMENICI. Parliamentary inquiry. Is it not Senator BYRD's amendment that is next pursuant to the previous agreement?

Mr. FORD. That would be the Senator's prerogative.

Mr. DOMENICI. I am just asking.

The PRESIDING OFFICER. The Chair has no specified list and therefore presumes it is to up to the managers of the bill.

Mr. EXON. Mr. President, Senator BYRD will be next in line, and I am pleased to yield to him whatever time we have on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 5 minutes.

AMENDMENT NO. 2972

(Purpose: To strike the reductions in highway demonstration projects and to provide an offsetting revenue increase)

Mr. BYRD. 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 West Virginia [Mr. BYRD], for himself and Mr. FORD, proposes an amendment numbered 2972.

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

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

The amendment is as follows:

Strike section 6002.

On page 1746, line 11, strike "2001" and insert "2000".

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100
1996	80
1997	60
1998	40
1999	20

Mr. BYRD. Mr. President, less than 4 years ago, Congress passed the Intermodal Surface Transportation Efficiency Act, ISTEA. That legislation 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 1996 to 2001. Companies have used this loophole to earn profits at the expense of the taxpayer by insuring employees, then borrowing on the policy and deducting the interest on company tax returns. Both the Senate and House bills proposed to phase out this loophole.

My amendment would simply require the phaseout in the Senate bill to be completed in 4 years rather than 5 years. My proposal would retain the key employee exception as contained in the Senate bill. My amendment would restore highway moneys to 48 States, and I urge its adoption.

Now, Mr. President, I ask unanimous consent that Mr. BUMPERS and Mr. PRYOR be added as cosponsors.

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

Mr. BYRD. Now, Mr. President, 48 States will lose money unless my amendment is adopted. They will lose money for highways. I do not blame the committee that had to meet its instructions and did so by rescinding $712 million in highway funds. But I have provided an offset, and therefore I hope that this amendment will be adopted.

I have received letters of support of my amendment from the American Road and Transportation Builders Association, the American Trucking Association, and 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; Arizona, $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, $13.8 million; Maine, $10.9 million; Maryland, $12.6 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, $4.3 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:

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Alabama	600.000	0	29.259	3.983.891	8.205.463	12.818.613
Alaska	0	0	0	0	0	0
Arizona	1.492.206	0	0	773.238	633.033	2.898.477
Arkansas	417.552	0	67.578	13.433.012	17.670.188	31.588.330
California	3.920.286	11.849	1.637.734	19.165.117	19.154.455	43.889.441
Colorado	0	0	0	90	150.475	150.565
Connecticut	100.200	0	324.603	531.450	4.119.907	5.076.160
Delaware	0	0	0	0	0	0
District of Columbia	0	0	812.253	2.069.040	1.146.724	4.028.017
Florida	3.233.284	0	2.547.679	12.885.327	9.317.009	27.983.299

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT —Continued

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Georgia	582.750	0	0	4.548.971	5.758.944	10.890.665
Hawaii	1,200,000	0	931.285	568.800	311.328	3.011.413
Idaho	0	0	17.587	4.455.415	3.652.915	8.125.917
Illinois	435.951	119.805	163.132	16.152.427	13.015.067	29.886.382
Indiana	866.448	0	15	2.459.368	4.924.171	8.250.002
Iowa	654.678	0	0	2.592.174	5.901.066	9.147.918
Kansas	2,287,280	0	0	3.624.030	3.787.824	9.699.134
Kentucky	1,662.456	0	0	1.827.894	1.120.780	4.611.130
Louisiana	1.725.000	0	2.997.515	5.475.780	3.630.344	13.828.639
Maine	0	0	0	1.291.604	9.708.244	10.999.848
Maryland	5.269.652	0	244.012	2.113.169	4.986.436	12.613.269
Massachusetts	438.000	0	598.349	559.320	306.139	1.901.808
Michigan	14.042.211	0	0	2.898.416	6.437.225	23.377.852
Minnesota	7.722.427	0	8.968	4.965.669	10.831.101	23.528.165
Mississippi	60.000	0	0	1.222.950	1.713.600	2.996.550
Missouri	96.000	0	0	1.812.401	7.475.659	9.384.060
Montana	640.542	0	0	1.429.242	933.984	3.003.768
Nebraska	0	0	0	1.576.152	1.298.237	2.874.389
Nevada	197.415	0	0	1.267.384	4.363.780	5.828.579
New Hampshire	1.159.504	0	640	1.571.425	1.665.604	4.397.173
New Jersey	6.306.751	0	2.350.069	10.125.842	10.528.075	29.310.737
New Mexico	1.318.693	0	38	0	560.390	1.879.121
New York	7.696.917	0	0	14.391.838	18.515.195	40.603.950
North Carolina	769.500	0	141.337	5.440.685	7.586.025	13.937.547
North Dakota	0	0	102.955	9.505	3.684.048	3.796.508
Ohio	1.159.275	0	1.306.292	12.078.132	8.206.606	22.750.305
Oklahoma	674.695	0	0	1.447.826	4.594.163	6.716.684
Oregon	98.954	0	80.300	5.208.840	2.386.848	7.774.942
Pennsylvania	6.949.575	0	2.446.078	56.843.233	45.750.168	111.989.054
Rhode Island	0	0	704.318	2.438.042	2.978.890	6.121.250
South Carolina	0	0	0	0	2.008.065	2.008.065
South Dakota	794.400	0	0	1.523.616	971.343	3.289.359
Tennessee	0	0	0	1.830.312	2.142.662	3.972.974
Texas	3.035.244	0	0	13.800.624	12.590.892	29.426.760
Utah	2.919.008	0	0	379.200	565.579	3.863.787
Vermont	0	0	0	1.655.358	1.037.760	2.703.118
Virginia	885.868	0	259.584	6.238.310	7.238.376	14.622.138
Washington	0	0	0	1.290.000	4.649.164	5.939.164
West Virginia	27.556.841	0	1.701.531	20.905.207	16.178.678	66.342.257
Wisconsin	0	0	0	0	3.709.992	3.709.992
Wyoming	0	0	0	0	1.037.760	1.037.760
American Samoa	0	0	90.479	113.760	119.342	323.581
Virgin Islands	321.600	0	0	1.263.900	1.042.948	2.628.448
Total	109.291.163	131.654	19.563.590	272.247.986	310.302.671	711.537.064

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,
Washington, DC. October 26, 1995.

DEAR SENATOR: The documented backlog of highway and bridge needs in the United States was estimated at more than $290 billion by the Department of Transportation in its 1993 report to the Congress. Despite this huge deficiency in infrastructure investment, the reconciliation bill (S. 1357) now before the Senate would reduce funding for highways by $522 million in fiscal year 1996 and an additional $165 million in fiscal year 1997.

The 4,000 members of the American Road & Transportation Buildings Association (ARTBA) strongly urge that you support an 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 higher 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 commercial 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 backbone 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 improvements. 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.

ARTBA's nationwide membership is involved in the planning, design, 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.

AMERICAN TRUCKING ASSOCIATIONS,
Washington, DC. October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate.
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 backlong of highway and bridge needs in the United States was in excess of $290 million. The conference report on the FY '96 Department of Transportation Appropriations bill (H.R. 2002) recognized 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.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Washington, DC. October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate.
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 mid stream will simply delay needed construction and could cost as many as 36,000 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 using 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. SANDHERR,
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

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. I 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. 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 that the demonstration 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 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 chose to read here tonight, but there are some very disproportionate returns 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 going to be the issue. 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, $29 million; Virginia, $14 million; West Virginia, $66 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 Senator 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 our 5 minutes, which is the jurisdiction of the Finance Committee, to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask that the Chair would be good enough to tell 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 guarantee coverage under the medicaid program for low-income aged, blind, and disabled individuals eligible for supplemental security income benefits under title XVI of the Social Security Act)

Mr. CHAFEE. I am sending the amendment to the desk, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. CONRAD, proposes amendment numbered 2973.

Mr. CHAFEE. Mr. President, I would ask that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 767, strike lines 12 through 15 and insert the following:

"(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (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 and myself. What 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 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 included substance abusers, 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 75 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 a group 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 this 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 mandated benefit 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 whom they covered in 1995, 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 be institutionalized at a far higher cost. I hope my colleagues will join me in preserving 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. They said, and I quote:

> 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. They 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 retardation, these services are not optional. 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. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. 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 up 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 frog; 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 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 now 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 does bring 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 protection, no 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 before us?

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. Wait a minute; wait a minute. How do we get all 10 minutes in favor of the amendment? I do not want to argue against it. You cannot allocate the time to the other side if they are in favor of the amendment. Is that not the rule? If it is not, I am mistaken.

Mr. EXON. I do not think the rule specifies that. But in a matter of fairness, I agree to the chairman's—who wishes to speak in opposition?

Mr. CHAFEE. Mr. President, it is such an outstanding amendment. I do not think there is any opposition.

Mr. DOMENICI. I am not so sure but you are right. But I want to make sure we do not have all 10 minutes. I thought we were going to save 5.

Mr. CHAFEE. Why do we not save time and just adopt it?

Mr. DOMENICI. We cannot do that right now. It may come to pass.

Mr. EXON. I yield half my time to the Senator from Rhode Island.

Mr. ROCKEFELLER. Will the Senator from Rhode Island yield? Will the Senator from Rhode Island correct the misstatement of the Senator from West Virginia about pregnant women, children and disabled as opposed to the elderly?

Mr. CHAFEE. I am going to stick what we have here, which is we are solely dealing with low-income individuals with disabilities. Mr. President, I tell you, when you are talking 75 percent of poverty, you are really talking about poor people.

But the key thing I want to stress here is these folks are being cared for in the community very frequently by their parents. And do not think these are 6-year-olds and their parents are 35. Their parents are frequently 65 and these individuals are 40 years old. But they are being cared for in the community, because they have this safety net of Medicaid coverage that is there in case they get ill. Otherwise, I am certain that they would end up in institutions at a far greater cost to the public and all of us.

So, Mr. President, I hope the amendment will be adopted.

Mr. COHEN. Will the Senator yield? I indicate my support for the amendment.

The PRESIDING OFFICER. Time has expired. If the manager wishes to speak in opposition, he is entitled to have 5 minutes restored in opposition.

Mr. DOMENICI. I do not choose to speak in opposition. Does any Senator want to speak in opposition? What 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 in support.

Mr. DOMENICI. 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 CHAFEE amendment. 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

percent of poverty, that is covered. And also the disabled are to be covered, but the definition of "disabled" was not made.

Mr. COHEN. My understanding is now you have included the definition that has been acknowledged under the SSI determination.

Mr. CHAFEE. As changed by the welfare bill.

Mr. COHEN. Then please let me lend my strong support for that, and I want to thank my friend from New Mexico for allowing me a moment or two to express my support.

Mr. CHAFEE. Mr. President, is this the proper time to ask for the yeas and nays?

The PRESIDING OFFICER. It would be appropriate.

Mr. CHAFEE. I do so. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I want to thank everyone.

Several Senators addressed the Chair.

Mr. EXON. Mr. President, I thought he was next. I was mistaken. I believe Senator BREAUX is next.

I yield our 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2963

(Purpose: To provide for a partially refundable child tax credit)

Mr. BREAUX. Mr. President, I have an amendment at the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 2963.

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

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

The amendment is as follows:

On page 1469, beginning on line 2, 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:

"SEC. 35. CHILD TAX CREDIT.

"(a) 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 $500 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 tax other than the credit allowable under section 32), and

"(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

"(b) 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 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) 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, and

"(C) such individual bears a relationship to the taxpayer described in section 32(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 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section."

"(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Child tax credit.
"Sec. 36. Overpayments of tax."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BREAUX. Mr. President, my colleagues, the largest item in the Finance Committee bill, by far, is the $500 per child tax credit. It cost $141 billion over 7 years. That is a lot of money. Some people think we should not have a tax cut at all. But this bill is going to have a tax cut in it. The largest one is going to be a per child tax cut at $500 per child. I would think that all of us, if we know it is going to pass, should at least agree on one thing—the largest number of families that need it should get it.

Here is what my amendment does. It addresses a problem that is very real. Simply stated, the Republican proposal only is a credit against income tax. It is not a credit against the largest tax that people pay in this country, that is, the payroll tax. For 75 percent of American families, they pay more in payroll tax than in income tax. This child tax credit is not an offset against the payroll tax. This chart shows that. The blue line is the payroll taxes that people pay on average. The orange line is an estimate of their income tax.

So you see, families making $16,000, all the way up to families on this chart making almost $27,000, are paying far more in payroll taxes than they are paying in income taxes.

The figures show that under the Republican proposal, something like 44 percent of all the children in America would only get a partial or no credit at all, because the credit is only against the income tax. Many families do not even pay that much in income tax.

If you have a family that has two children, that is a $1,000 credit. But if they are only paying $700 or $500 in income tax, they do not get to use the credit. Therefore, simply stated, my amendment makes the $500 per child tax credit a credit against both the income tax or the payroll tax. We spend the same amount of money—not a dime more, not a dime less. But we cover 44 percent more children. We cover about 31 million more children living in families, and if we are going to spend this money for a credit, let us make sure they get it.

The second chart tells you what we are talking about when we look at family earnings and how much they pay in income taxes—the actual numbers. A family making $20,000 a year is at about $458 in income tax. That would not even pay for the credit for one child. But that same family is spending over $1,500—$1,530—in payroll tax. My amendment says that the $500 per child tax credit can be used as a credit against the payroll tax, as well as an income tax, so that the family making $20,000 will get some of the benefits of this massive program that we are passing. What is wrong with saying let us make sure that the most number of children get the benefit?

I have seen some of the Republican charts that say, well, under this credit, this proposal, we get a huge credit against income tax. Sure, the problem that is most families pay more in payroll tax, and it is no offset whatsoever against the payroll tax. So for families making under $30,000 a year, for most of them it is no benefit at all.

Look at this chart. This is every State in the country. This is the median household income. In Louisiana, it is $25,000. Under the Republican proposal, if you are in a family making less than $30,000 a year, you are not going to get the benefit of a per child tax credit. So my proposition is very simple. If you want to add about 31 million more people to the rolls and give them the benefit, for the same amount of money—exactly the same amount of money—my credit goes out to families making up to $75,000 a year. It starts to phase out at $60,000 and eliminates it at $75,000 per family, but it makes it refundable against a payroll tax. By spending the same amount of money, we cover 31 million more children. I think that is what we are trying to do.

I got this wonderful note from the Christian Coalition saying they are going to target this amendment. They say, "We are going to portray this amendment as a vote to gut the $500 per child tax credit." It does not gut it; it is the same amount of money. We are just covering 31 million more children in this country by making it a credit against the payroll tax. They say they want to make sure they get the most number of people covered. That is exactly what my amendment does. They say, well, his starts to phase out at $60,000 per year. That is true.

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 Senator has expired.

Mr. BREAUX. Forty-four percent more children are covered.

I urge adoption of this amendment.

Mr. DOMENICI. Mr. President, I yield 2½ minutes to the Senator from Minnesota.

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 provide 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 like $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 for the EITC 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 like to work with 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 to vote no on the amendment.

Mr. BREAUX. Will the Senator from New Mexico yield me 60 seconds? I do not think I have any time left.

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 care 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 a situation with 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 the age at 15 and not 17, as in our proposal, 5 million children between the ages of 16 and 17, whose families' income fall below $75,000 a year, would not be denied this child tax credit. It 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 a child tax credit at 16 years of age. I have been through this, 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 limits the $55 credit for many middle-class families. Second, it limits the number of children who would qualify for the credit.

For families earning between $60,000 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 much needed tax relief to all American families.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I 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 discretion 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 provisions)

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.

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 1588, 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(l) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

"For taxable years beginning in	The applicable in percentage is:
1996 and 1997	60
1998 and thereafter	100."

(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.

In my role as chairman of 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.

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 colleague from Missouri for yielding to me, and I thank the distinguished manager, Senator EXON of Nebraska, for giving me the opportunity to address this issue.

We all know last 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 in which to place small businesses and 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 a letter with 73 of our colleagues who promised not to offer or support 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 on the floor of the Senate in an 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 what our amendment does.

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 basically make insurance 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 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 Restaurant Association, NFIB, National Retail Federation, Small Business Legislative Council, Society of American Florists.

I ask unanimous consent this be printed in the RECORD.

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

SUPPORT THE BOND/PRYOR AMENDMENT

OCTOBER 25, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Senate Committee on Small Business, Washington, DC.

DEAR SENATOR BOND: We, the undersigned organizations, support your and Senator Pryor's amendment to Reconciliation 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 corporations and partnerships have been limited to 30 percent—which was just increased five percent this year. This is simply unfair and must be changed.

We believe that before the Congress authorizes a costly, new deduction for any other kind of health care benefit self-employed small business owners and 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. We urge all of your colleagues to support your amendment.

Sincerely,

American Farm Bureau Federation, Associated Builders and Contractors, Chamber of Commerce of the United States, H.E.A.L. (Healthcare Equity Action League),[1] National Association for the Self-Employed, National Association of Home Builders, National Cattlemen's Association, National Federation of Independent Business, National Restaurant Association, National Retail Federation, Small Business Legislative Council, Society of American Florists.

SMALL BUSINESS,
LEGISLATIVE COUNCIL,
Washington, DC, October 24, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We strongly support your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care expenses.

As you know, sole-proprietors, partners and S Corporation shareholders can now deduct 30 percent of such costs. For many years, these individuals were not allowed to deduct health care costs at all. For a time, the deduction was 25 percent, but it was a temporary deduction and we found ourselves fighting each year to justify a provision that should not require a constant defense.

The prohibition on such deductions is an anachronism from the 1950s, based on an outdated concept of how business entities should be taxed under our system. In the modern day business environment, this policy is simply unfair. Frankly, we believe, if not for the issue of revenue, Congress would have already changed this law. It is time to address this inequity once and for all time.

The Small Business Legislative Council [SBLC] is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

GARY F. PETTY,
Chairman of the Board.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America,
Alliance for Affordable Health Care,
Alliance of Independent Store Owners and Professionals,
American Animal Hospital Association,
American Association of Equine Practitioners,
American Association of Nurserymen,
American Bus Association,
American Consulting Engineers Council,
American Council of Independent Laboratories,

[1] The Healthcare Equity Action League (HEAL) was formed in 1991, and is the oldest and largest business community coalition supporting healthcare reform. It is comprised of over 600 companies, associations, and local Chambers of Commerce, representing over 1 million employers and 35 million employees.

American Gear Manufacturers Association,
American Machine Tool Distributors Association,
American Road, Transportation Builders Association,
American Society of Interior Designers,
American Society of Travel Agents, Inc.,
American Subcontractors Association,
American Textile Machinery Association,
American Trucking Associations Inc.,
American Warehouse Association,
AMT—The Association for Manufacturing Technology,
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.,
Council of Fleet Specialists,
Council of Growing Companies,
Direct Selling Association,
Electronics Representatives Association,
Florists' 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 Independent Flag Dealers Association,
National Knitwear & Sportswear Association,
National Lumber & Building Material Dealers Association,
National Moving and Storage Association,
National Ornamental & Miscellaneous Metals Association,
National Paperbox Association,
National Shoe Retailers Association,
National Society of Public Accountants,
National Tire Dealers & Retreaders Association,
National Tooling and Machining Association,
National Tour Association,
National Wood Flooring Association,
NATSO, Inc.,
Opticians Association of America,
Organization for the Protection and Advancement of Small Telephone Companies,
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.

NATIONAL ASSOCIATION
FOR THE SELF-EMPLOYED,
Washington, DC, October 25, 1995.

Hon. KIT BOND,
Chairman, Senate Small Business Committee, Washington, DC.

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. 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. A 100-percent deduction would give the self-employed the 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. I believe 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.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Small Business Committee, U.S. Senate, Washington, DC.

DEAR KIT: The U.S. chamber of Commerce Federation of 215,000 businesses (96% of whom are small businesses), 3,000 state and local chambers of commerce, 1,200 trade and professional organizations, and 75 American chambers of commerce abroad strongly supports your small business amendment to the Balanced Budget Reconciliation bill. Your amendment would allow the self-employed and small businesses to deduct 100% of their health insurance costs, a benefit currently available only to large corporations.

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, should be granted a measure of security equal to that of larger corporations.

Once again, the Chamber commends 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,
Irving, TX, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

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 health care costs, and 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 upon 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 imprinted with an 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.

NATIONAL HOME
FURNISHINGS 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 National Home Furnishings Association [NHFA], I wish to express our strong support for your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is long overdue.

It is unfair to penalize small business owners solely because they elect to do business as a sole proprietorship, partnership, 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 [WFCA], 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 the long-term care insurance program. We have had discussions about finding other offsets to this amendment so that we may be able to start on that long-term care prospect. I will be most anxious to work with my colleagues because I think everybody here at one time or another has expressed his or her strong support for the full deductibility of health care.

With that, I ask unanimous consent that I be permitted to modify the amendment prior to a vote on it.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I do not understand what that means.

Mr. BOND. Mr. President, if I could respond.

Mr. DOMENICI. You mean, if you find another source of revenue?

Mr. BOND. There are minds far brighter than mine and people with far greater access to the intricacies of this measure who are embarking on a good-faith effort to find offsets to get them scored by the Joint Tax Committee.

I sincerely hope we can find a way to accommodate both the long-term insurance and the health care. I believe very strongly that the health care deductibility for self-employed must be done. I would like to be able to work with my colleagues who support the long-term insurance program so that can be accomplished.

At this point we do not have an offset. I want to make sure this measure is before us.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Senator DOLE wants to be recognized in opposition.

Mr. DOLE. Only in opposition to the long-term care.

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 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 way in the Finance Committee for 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 really 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 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 truly believe, in the midst of 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 it. That we start, in this bill, moving in the direction of letting that happen for people who want to save for themselves and buy insurance and get an appropriate credit, seems to me to 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 the rest of the country.

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 are 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 SNOWE, then Senator DORGAN, then Senator PHIL GRAMM of Texas, and 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, it is my calculation that 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. WELLSTONE. 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 will be Senator BIDEN followed by Senator SNOWE followed by Senator DORGAN followed by Senator PHIL

Gramm of Texas followed by Senator KERRY of Massachusetts.

With that, I yield 5 minutes to Senator BIDEN, from the State of Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

MOTION TO COMMIT

Mr. BIDEN. Mr. President, I send a motion 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 Delaware [Mr. BIDEN] proposes a motion to commit with instructions.

Mr. BIDEN. 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:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 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 any day the Senate is not in session) with identical language, except that the Committee on Finance shall include a provision in the bill which would provide tax relief to middle-class American families and which would help middle-class families meet the rapidly rising costs of a higher education by providing a tax deduction of up to $10,000 per year for the costs of a college education for individual taxpayers with adjusted gross income of not more than $90,000 and for married couples with adjusted gross incomes of not more than $120,000. The Committee on Finance should also include a provision which offsets the costs of this proposed tax deduction by restricting the growth of tax expenditures, except for the deductions for mortgage interest, health insurance, state and local taxes, and charitable contributions.

Mr. BIDEN. Mr. President, this goal is straightforward. It is simple and I think consistent with what I heard everyone over the last 2 years talk about. We all stand before this body, in both parties—I do not question the motivation of anyone in either party—and we always talk about the need to give immediate relief to middle-class taxpayers. Admittedly, in this bill there is some relief for middle-class taxpayers in the tax portion, and that is the $500 child care tax credit. I would argue—I will not take the time now—the additional cost to middle-class families as a consequence of the cuts in Medicare and Medicaid will offset that, but that is a different question.

One of the things we also talk about is the goal and dream of every American family, whether it is the richest businessman or poorest welfare mother, and every middle-class family, and that is providing for the education for their children.

Frankly, as the Presiding Officer knows, it is getting harder and harder for middle-class families—and I mean that in a broad range, people making from $30,000 to $90,000 individually or up to $120,000 as a family—to be able to afford a college education. 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.

The orange represents the cost of public college tuition. I want to make sure we understand now I am talking about State universities. I am not talking about private universities, whether the Syracuses or the Harvards or the Yales or the Georgetowns of the world, which are a great deal more expensive than the cost of public tuition and fees. And I am not even talking about room and board. I am not even talking about that—just college tuition and fees. Since the 1980's the college tuition and fees for public universities have increased 236 percent. The median household income in America has gone up 82 percent.

If you go back to 1980 you can see how every single, solitary year the gap is widening, in what I do not know anyone would disagree with is the ultimate middle-class dream most American families have, like the one my father had, he never went to college: give my son and my daughter a college education.

When I went to school, this gap was not so wide. If you take a look at what has happened in terms of, again, income for median families, middle-income families, in 1980, 4.5 percent of median household income was what it cost to send someone to college. Now that is almost doubled, it is 8.4 percent. That is for one child.

The bottomline is it is getting incredibly 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, just for tuition and fees for a public university.

Education is one of the best investments we can make in American society. I have voted for investment tax credit for businesses. I voted for tax credits for them buying machinery and all of those things which make sense in my view.

I can think of nothing that makes more sense than encouraging American families to invest in a post-high school education for their children. It seems to me it is about time they should get a break.

Mr. President, to reiterate, this motion to recommit is simple. It instructs the Finance Committee to include in the budget reconciliation bill a tax deduction of up to $10,000 for the costs of a college education.

Let me tell you why this is important. In my years of public service, I have found that no matter what differences may divide us, there is always one constant thing that unites us. We all have the same dream.

Think about it. No matter who you talk to—black or white, rich or poor—every American family dreams that their children will go to college. It was my dad's dream for his children, and it was, and is, my dream for my children. It remains the dream of every middle-class American family.

But, that dream is now at risk. This last summer, a poll was conducted of undergraduate students and parents with children in college. Of those surveyed, 87 percent—nearly 9 out of every 10 Americans—believe that the cost of college is rising so fast that it will soon be out of reach for most Americans.

It should be no surprise why the overwhelming majority of Americans believe that. At the rate we are going, it is true. It is getting harder and harder for middle-class Americans to afford a college education.

It makes you begin to wonder what exactly the word public means when you say "public higher education."

A college education is slipping out of reach of middle-class Americans. And, if they still want to fulfill the dream, 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 all the money ever 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 guaranteed student loan program has been with us for 30 years. And, of all the money borrowed during that 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. And, it would be paid for by limiting the growth—not cutting, just limiting the growth—in tax expenditures.

Mr. President, education is one of the best investments we as a society can make. It is one of the best measurements of future economic well-being. And, it is more important now than ever before. Previous generations could make a solid middle-class living with only a high school education. No more.

In fact, there was an interesting point made in a Wall Street Journal article last week. Working families save primarily by investing in human capital—that is, education.

Yet, when businesses invest in machine capital, they are not taxed. Middle-class families, when they invest in

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 1800's 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 middle-class 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 that deduction. 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 business, something needed 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, in light of the fact that we have provided significant assistance to middle-income Americans—in this bill, there is a credit for student loan interest, a credit for 20 percent of the interest paid on the student loan during the taxable 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 capped at $500 per year per borrower, $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 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—than it 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 finishes, I yield 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.

AMENDMENT NO. 2976

(Purpose: To express the sense of the Senate regarding the coverage of treatment for breast and prostate cancer under Medicare)

Ms. SNOWE. 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 assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MACK, Mrs. HUTCHISON, and Mr. GRAMM, proposes an amendment numbered 2976.

Ms. SNOWE. 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 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF 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 chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(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

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) 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 these important cancer drug treatments.

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 reconciliation conferees should amend Medicare to provide 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.

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. This is because in 1993, the Medicare OBRA provisions allowed the coverage of oral cancer drugs that were previously available in injectable or intravenous form.

However, half of all women with breast cancer, that is, 50 percent, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy that is administered through oral cancer drugs that have never been available in injectable or intravenous form.

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 approximately 200,000 Americans per year.

Second, both diseases take over 40,000 lives each year. While breast cancer affects 1 in 9 women, prostate cancer affects 1 in 11 men every year, and for both diseases the number of reported cases is rising rapidly. In fact, the number of reported cases of prostate

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 in 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, it is 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.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. SNOWE. Mr. President, I ask 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. BIDEN 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. BIDEN. Mr. President, I thank the Senator. I wish to thank my colleague from Maine. As an original cosponsor 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 not 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 this in two forms. 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 conferees will approve Medicare. I support it. In fact, I worked on matters of this oral use of cancer pills and other things in the past.

But I would be very surprised, quite frankly, if we can in Medicare buy a single new aspirin, much less prostate cancer and breast cancer remedies, under the $270 billion cut which the underlying bill of the majority contemplates, let alone any more coverage whatsoever for cancer. And I think that Senator SNOWE understands that, making this, therefore, a sense of the Senate.

Keep in mind, please, my colleagues, that we are cutting $270 billion. We were devastating everything from graduate medical education to rural hospitals, to premiums, to original research in any area. You are going to find a lot of people—in fact, I notice our colleague from Massachusetts coming in—you will find a lot of people not going into research medicine to come up with new cures for prostate cancer or breast cancer because of what is happening to graduate medical institutions.

But all we had to do to get this amendment and to be able to pass this amendment was, in fact, to do what the Democrats wanted to do, which was simply cut $89 billion from Medicare. But, no, they wanted to cut $270 billion in order to be able to——

The PRESIDING OFFICER (Mr. KYL). The Senator has used his 2½ minutes.

The Senator from Nebraska controls the time.

Mr. EXON. I will be glad to yield—has the Senator finished? Does the Senator need more time?

Mr. ROCKEFELLER. One minute.

Mr. EXON. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Medicare, let us face it, has been put on the chopping block. 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 and pray Medicare can do 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 others are seeking time, I will be glad to yield back our time.

Is there any time on this side?

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator JEFFORDS as a cosponsor of this amendment, and I will yield back the remainder of my time.

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? I yield back our time.

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.

AMENDMENT NO. 2977

(Purpose: To end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States)

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 numbered 2977.

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. 2. 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:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).".

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

"(h) 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 in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(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(c)).

"(2) IMPORTED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person 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 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(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.

"(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and".

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)),"

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking "or (E)" and inserting "(E), or (H)".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(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 redesignating the following subclauses accordingly):

"(III) imported property income,".

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

Mr. DORGAN. This is a very important amendment. It is one that actually has previously been passed by the House of Representatives a few years ago. My amendment simply ends something called "deferral" for someone who closes their plant in the United States, moves it to a tax haven country, makes the same product and ships it back to the United States. This is about moving jobs overseas.

We have had a circumstance in this country for some while where we say to somebody, "If you close your manufacturing plant in America, move the jobs overseas, make the same product, ship it back to the United States, we will give you a tax break. Stay here and you pay income taxes. Move your jobs overseas and do your manufacturing overseas, we will give you a tax break."

We have lost 3 million manufacturing jobs during the same time that Singapore has experienced a 46-percent increase in manufacturing jobs. That is not a coincidence. We give a tax break for people to ship their jobs overseas.

Let me give you an example of that. Here is a company that I will not identify. I will just tell you it makes pants, a pants company. This company had 280 of its employees apply for trade adjustment assistance a few months ago.

What does that mean? It means they lost their jobs because of overseas competition. The same company, whose employees now have lost their jobs here in this country, same company, describes with its filings what it does, performs most of its sewing and finishing now offshore in order to keep production costs low. It means they have moved their jobs out of this country.

Then it says in its financial reports, this same company has undistributed retained earnings of $21 million, November 1994. No tax has been paid on them because the management intends to indefinitely reinvest them in foreign countries.

What does this mean? It means they get a tax break. They would have paid $7 million in taxes had they stayed in this country and manufactured. But, no, we say to them, "If you move your operation outside of this country, move your American jobs elsewhere, give the jobs to foreigners, shut your plant down here and move your jobs overseas, we'll give you a tax break."

My legislation is very simple. It says, end the tax break for people who want to move their jobs overseas. End the tax break. It does not make any sense. No one, in my judgment, can honestly defend this kind of practice.

Use the money that we develop as a result of this amendment to reduce the Federal debt. That is what this amendment is about.

This amendment I offer on behalf of myself and Senators KENNEDY, REID, FEINGOLD, and BUMPERS.

I have heard a lot of debate about a lot of financial issues, but I never heard anyone in this country who can defend a part of the Tax Code that says, "We will be willing to provide a tax break if you will only close your doors to your manufacturing plant in the U.S.A. and ship the jobs to some foreign land."

If we cannot end this sort of thing, how can we talk to the American people about good jobs? Sixty percent of the families in this country now have less income than they did 20 years ago. Why? Because good jobs are moving overseas. There are a lot of reasons for that, but at least one of those reasons is we have an insidious, perverse incentive in our Tax Code to reward those with a tax break who would move their jobs overseas.

This amendment very simply says, "Let's at least stop that. Let's decide jobs in this country are important. We want to retain good jobs, good-paying jobs, manufacturing jobs. Let's stop the flight of American jobs out of America." And one way to do that, among many others, is to decide to straighten out the Tax Code.

The fact is, President Clinton during the last campaign talked about this issue. We have had people on all sides of the political aisle talk about it. I was helpful in getting this passed through the House of Representatives in 1987, I believe it was. It subsequently was dropped. It was subsequently dropped in conference. This bill had extensive hearings. I held a hearing on this bill in the U.S. Senate. So this bill meets the criteria. We understand what this is about. This amendment makes sense. I hope that this amendment will have the support of Members of the

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 business 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. We have purposely avoided 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.

Again, let me 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 hurt those who are going abroad 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 I know believes 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, we ought to 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. 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. 2978

(Purpose: To provide States additional flexibility in providing for Medicaid beneficiaries)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2978.

On page 767, strike all after "(2)" on line 6 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 legislature of the various States love people 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 them out of office directly, 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-mandated 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 State, 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 this 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 the 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 into Federal court and sue the States on these issues. I think that clearly 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 my time.

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 talks about "flexibility." The purpose is, of course, to get rid of all of this. If the Senator wants to have a vote on getting rid of Medicaid or getting rid of care for pregnant women, for children under the age of 12, or the disabled, why does he not suggest that?

We have been through this so many times before. "Let the States decide what being disabled means." So then 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."

I believe that 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 that. This Senator, in what appears to be 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 every child 5 and under up to 133 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 sending the States $800 billion over the next 7 years—not million, but billion, with a "b."

When you send out money like that to the States, it seems to me you are entitled to ask for something. What do we ask for? We say they must cover poor children, 100 percent of poverty, up through the age of 12. Do we say what kinds of coverage, what the health care package is? No. It could be the most modest package. Indeed, one aspirin a year could be the health care package.

So to say this is arrogance, when we demand that the States cover this little group, come on now. I thought this was being offered with a sense of humor, but I see the Senator is serious about this.

So, Mr. President, I hope this amendment is resoundingly defeated because we have to stand for something around this place. When we send out $800 billion, we are entitled to ask for something on behalf of the States' poor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from West Virginia has 23 seconds. The Senator from Texas has 48 seconds.

Mr. ROCKEFELLER. I yield back my time.

Mr. GRAMM. I want to conclude the debate.

Mr. President, we are reducing funding for the existing Medicaid Program by $187 billion. The Governors agreed to this reduction. But on one basic part of the agreement, they asked that if we were going to reduce funding that we let them run their program, which they are funding in conjunction with us.

Now what is happening is the Senator from West Virginia and the Senator from Rhode Island are saying, OK, we are giving you less money, but we are going to tell you how you have to run this program. As for this talk of "getting rid of Medicaid"—nobody is talking about getting rid of Medicaid. And "mean spirited"—I flatly reject the notion that the Senator from West Virginia loves the children in Texas or Rhode Island more than the Governor of Texas and the Governor of Rhode Island loves the children in their own States.

The tide of history is moving against the "Washington knows best" policies advanced by the Senator from West Virginia and the Senator from Rhode Island, and this provision may stick today, but its days are numbered. We have to stop telling the States how to run programs in their own jurisdiction, based on our own arrogance that only we know best and only we care.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I believe, under the agreement, the Senator from Massachusetts, Senator KERRY is next. I yield to him 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2979

(Purpose: To increase the Federal minimum wage)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself and Mr. KENNEDY, proposes an amendment numbered 2979.

At the appropriate place in the bill insert the following new section:

"SEC. . MINIMUM WAGE.

(a) FINDINGS.—

"(1) The federal minimum wage has not been raised since 1991; and

"(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

"(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

"(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

"(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year; and

"(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

"(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

"(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

"(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

"(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

"Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress."

Mr. KERRY. I yield myself 3 minutes, Mr. President. I emphasize that this is a sense of the Senate, No. 1; and, No. 2, it does not set a specific figure at this time, though many of us would like to.

It simply says that the Senate will go on record as being prepared to debate and vote on the raising of the minimum wage, which was introduced last February, that we will vote on it before the end of this first session.

Why is that important, Mr. President? Well, from 1979 until 1995, 79 percent of the increase in household income in America has gone to the top 20 percent—the 20 percent wealthiest Americans. The minimum wage which, during the 1960's, was at about 52 percent of the nonsupervisory wage, and during the 1970's was at about 45 percent, and during the 1980's was at about 40 percent, is today at 37 percent of the nonsupervisory wage.

That means, Mr. President, that for those two-thirds of the people on the

minimum wage who are adults—60 percent women—they are working at 70 percent of poverty level in this country today—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 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 70 percent of those that work full-time have children in their families. This amendment is for women, working women, because 60 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 reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining and the Senator from Massachusetts has ½ minute.

Mr. DOMENICI. I yield back my time.

Mr. KERRY. The minimum wage worker today will earn $8,500 for full-time work. The poverty line is $12,500. Every economist, conservatives and liberals alike—at Harvard, and Friedman, say you have 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. KENNEDY. Will 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 title V)

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 that will correct the reconciliation statute that the Energy Committee passed. I believe it is acceptable.

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. 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 2006):".

(2) On page 361, 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 accept 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.

Mr. DOMENICI. We will put it in the sequence in this particular position.

Mr. EXON. According to my list we have Senator KENNEDY next.

Mr. DOMENICI. We have one 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 corporations to remove money from pension plans and use it for nonretirement purposes. That particular proposal is included in the Republican measure that is now before the U.S. Senate.

The Republican budget, therefore, hits 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

the pension system. The pension system is not broken. We have no right to give away $20 billion of pension funds that do not belong to us and do not belong to the Federal Government.

The $20 billion that the Republican budget gives away belongs to workers and retirees who have given up wages to have that money contributed to their pensions. The bill is an invitation to corporate raiders and greedy executives to loot the pension plans of their workers and retirees.

What looks like overfunding today can be underfunding tomorrow. The Senator from Kansas, Senator KASSEBAUM, put it well several years ago when she said, "If stocks and bonds drop in value, as they will at some point, these surpluses could evaporate like the morning mist."

The history of the Pension Benefit Guaranty Corporation over the past 20 years makes it clear that today's well-funded company can become tomorrow's massive pension bankruptcy.

Congress should be worried about plan underfunding, not how to give away surplus assets that have been built up for retirees. The danger of underfunded plans is what Congress ought to be addressing.

We passed the Pension Protection Act last year to strengthen pension funding. It makes no sense to turn around a year later and weaken pension funds 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 defeat this unconscionable 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 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 1980's, Congress in 1990 imposed an 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, in fact, 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 could be withdrawn—with little or no penalty—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 these 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. 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 modification to title I of ERISA, which clearly fall within the Labor Committee's jurisdiction.

Yet the Labor Committee did not consider the pension provisions contained in the legislation before us. And neither the Finance Committee nor the Labor Committee has held hearings to consider modifications of this nature in the pension reversion area.

Mr. President, as I said, the Senate proposal clearly is more limited than the House proposal. I also believe that there may be valid reasons to revisit the pension reversion penalties that were imposed in 1990.

However, given the actions that led to the imposition of the excise tax, I strongly believe that any modifications in this area should be given full consideration by the committees of jurisdiction and that we should weigh heavily the genuine possibility of adverse consequences to plan participants, the Federal pension insurance program, and the national savings rate that may result from a change in pension policy of this magnitude.

Therefore, I intend to support the KENNEDY amendment and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. 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.

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

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 matter of a few years ago when 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 overfund 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, because they had planned to take it out in a year in which they owe no taxes.

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 balance the budget of the Federal Government off the security and hard work of working men and women who depend on these funds for their well-being, and to turn it over to corporate raiders.

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 excess assets from pension plans to the extent of their costs for other employee benefits—such as health care for active employees—without paying the current-law excise tax. The 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

Benefit Guaranty Corporation [PBGC] and U.S. taxpayers.

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, however, is hardly a reform: rather, it is a conspicuous corporate welfare program of its own. 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 removes assets from 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 measure excess assets using a standard that is easily manipulated and thus, I believe, inappropriate for this purpose. Under the provision, a pension plan would be considered to have excess assets, eligible to be withdrawn, to the extent its assets exceed 125 percent of the plan's current liability. Under this standard, the employer is free to use a range of interest rate and mortality assumptions, and need not account for the effect of early retirement or contingent events such as plant shutdowns. Thus, an employer can choose favorable actuarial assumptions to minimize the plan's liabilities and maximize the excess assets it is entitled to withdraw from the retirement plan under the proposal. Consequently, the cushion provided by the proposal cannot ensure that adequate funds remain to fulfill the amount of the employees' accrued benefits.

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 accordance with the provision in the bill could leave those plans with less than 90 percent of the funds needed to pay benefits on termination. PBGC would be expected to pay the difference, up to the guaranteed level.

Moreover, the current liability standard is highly susceptible to shifts in the stock or bond market. The stock market is currently at an all-time high; any subsequent drop in the market could have a significant adverse effect on a plan's asset values, thereby causing a plan that currently has excess assets under the proposal to become underfunded. Thus, a more substantial cushion is necessary than that provided by the proposal to protect against future market shifts.

The Republicans note that the standard used in this proposal is the same standard enacted for pension transfers for retiree health benefits in the 1994 Uruguay Round Agreements Act [GATT]. However, the two provisions are vastly different in scope. The potential transfers allowable under this proposal would dwarf the amount of transfers allowable for use in meeting retiree health costs under GATT. Care was also taken in GATT—unlike in the Republican proposal—to create a protective firewall that is, a maintenance of effort requirement. Thus, the proposal will increase considerably the risk of loss to the PBGC.

Finally, by exempting employers from the current law excise tax, the proposal encourages employers to use pension plans as tax-sheltered corporate piggy banks. Under current law, if an employer terminates its plan and takes a reversion, an excise tax of 50 percent of the reversion applies. One purpose of the excise tax is to recapture the tax benefit the employer enjoys from earnings that have grown tax-free on the contributions to the pension plan. In 1990, GAO found that an excise tax of between 17 percent and 59 percent was necessary—depending on the plan population and the underlying investments—for the Federal Government to recapture the tax benefit to employers when assets in a pension plan are withdrawn by the employer. In addition, the proposal removes the deterrent effect of the excise tax on plan terminations: An employer can first take the excess assets and subsequently terminate the plan, thus avoiding the excise tax because there would be no additional assets left to revert to the employer as a result of the termination.

Yet, employers under the committee's proposal are exempted from the excise tax, and are merely required to include the amount taken into income. Any company with a net operating loss carryover can offset the income from the pension transfer with its accumulated net operating losses. Thus, the tax paid by employers on a reversion under this proposal could be zero. Moreover, under this proposal, an employer can easily terminate its plan after draining it of excess assets, thus avoiding the termination excise tax altogether.

Senate Republicans argue that the use of the pension transfers under the proposal is restricted to meeting the costs of other qualified employee benefits—primarily health benefits for active employees. Make no mistake: This requirement is merely cosmetic. The proposal allows employees' pensions to be siphoned off for general corporate use. Nearly all employers who would take advantage of this proposal already provide health benefits to their employees. Thus, using these excess assets for existing health benefits merely frees up funds they would have spent anyway, to be used in turn for executive bonuses, extra shareholder dividends, or the like.

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.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts has ½ minute remaining.

The Senator from New Mexico.

Mr. DOMENICI. I yield our 5 minutes to the distinguished chairman of the Finance Committee, Mr. ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, excess pension assets do not belong to employees. The reason for this is that under a defined benefit pension plan, the employer promises to pay an employee a fixed monthly retirement benefit. Under current law, after these benefits are fully funded the employer can take out excess assets upon plan termination.

Excess pension asset transfers will not reduce or jeopardize workers' pensions. Only the most overfunded pension plans will be allowed to transfer excess pension assets. According to a former chief actuary of the PBGC, only 1 percent of plans covered by the PBGC terminate in a given year without sufficient assets. And after the passage of the stringent funding rules in last year's GATT legislation, it is reasonable to expect the incidence of plan failures will decrease in the future.

The proposal also contained several provisions designed to guard against plan underfunding. First, employers are required to keep a substantial cushion of excess pension assets in the plan. And I point out this is the same measure that President Clinton proposed for retiree health transfers in the Retirement Protection Act of 1994.

The other side has attacked this proposal. But is it not interesting that their own President proposed the same measure that is contained in the legislation before us tonight.

The minimum cushion is 125 percent of plan liabilities, and in many cases the cushion is as high as 150 percent of plan liability. In fact, a national actuary firm prepared a study that concluded that more than 70 percent of the overfunded plans will be subject to a cushion greater than 125 percent of plan liability. At these funding levels, the pension plan will always be at the full funding limit.

In fact, plans at the full funding limit are not permitted to make new contributions to the pension plan. Plan trustees are required to use a plan asset valuation method that results in the largest asset cushion. And, to guard against fluctuations in interest rates and stock market values, the proposal requires plan trustees to use January 1, 1995, or the most recent valuation date before the transfer, whichever results in the largest asset cushion.

Employers must use the excess assets to fund ERISA-protected employee

benefit plans that cover a broad group of employees. That is a most important point that must and should be understood. Employers can only take 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 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 the Senator from Vermont.

Mr. President, I ask unanimous consent that Senators JEFFORDS, MOYNIHAN, BINGAMAN, EXON, WELLSTONE, SIMON, and 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 of pension plans. This will result in tens of billions of dollars being withdrawn from employee pension plans at a time when we are in absolute need of improving our pension capacity. It is done without any hearings. It is a matter 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.

I vigorously oppose the provisions that are in the bill and support the strike amendment.

The PRESIDING OFFICER. All time has expired.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next Senator on the list is the distinguished Senator from Minnesota, Senator WELLSTONE. I yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 2982

(Purpose: To scale back corporate welfare in the tax code by eliminating the deduction for intangible drilling and development costs for oil, gas, and geo-thermal wells, by eliminating the corporate minimum tax provisions, by eliminating the foreign earned income exclusion, and by eliminating the section 936 possession tax credit, and use the savings for deficit reduction)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2982.

Mr. WELLSTONE. 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. . REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(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 corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(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 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;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit.

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: "This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.", and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(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.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. 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 12161 and section 12162 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.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking "subtitle," and all that follows and inserting "subtitle—

"(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

"(2) for any taxable year, the housing cost amount of such individual."

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

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 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.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 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."

(c) 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.

Mr. WELLSTONE. Mr. President, this amendment scales back corporate welfare in the Tax Code by eliminating several loopholes, including the deduction for intangible drilling and development costs for oil, gas, and geothermal wells, the corporate minimum tax provisions, the foreign earned income exclusion, and section 936, the possession tax credit. It locks all of the savings away to be used for deficit reduction—and only for this purpose.

The savings from these amendments, all to go for deficit reduction, range between $60 and $70 billion, depending on

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 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 belts, 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 transportation, in 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: What Went Wrong?" 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 person's 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.

Who yields time? The Senator from New Mexico.

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 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 are importing 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 oil slump began.

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 cannot 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 for producing oil and gas and the men and women who work in it, 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 Minnesota has 2½ minutes.

Mr. WELLSTONE. First of all, Mr. President, we have on the part of my colleagues on the other side of the aisle a proposal for exporting more oil now from the North Alaska slopes, at the very time we are saying we are worried about our own supply. That is already contained in this bill.

Second, this is typical of what happens when we try to scale back corporate welfare and close tax loopholes. Every time you take on a powerful interest like this as opposed to regular people, opponents claim that the sky is going to fall in. It is not true that this change would spell the demise of the oil and gas industry. Just like other industries and other businesses, they should be made to capitalize their costs, to write off their costs over a longer period of time—the life of the asset. This is a special exemption, just for one industry. That is what is going on here. And this is why people do not trust this process. Every time it is a powerful interest whose benefits are under fire, we hear all sorts of reasons why they cannot be asked to tighten their belts. But, boy, when it comes to Medicare, when it comes to education, when it comes to children, belt-tightening is all the rage. This amendment basically says, let us have a standard when it comes to some deficit reduction. Let us have standard of fairness.

I will reserve the rest of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I regret to tell my friend, Senator WELLSTONE, that average people use oil. Without oil for America, average people suffer. Medicare suffers. Hospitals close.

Does anyone recall when we were in the small embargo situation with Iran and the cars were piled up at our gasoline stations? They were even shooting each other in the excitement of trying to get up there and see if they could get some gasoline in their cars.

All the gasoline comes from oil. Why should we stop producing oil in the United States, take away the tax deductions that are legitimate that they have? They are just as legitimate as everybody else's deduction. They are not a gratuity or a gift. So it might be nice to say, let us take out after this industry, but it is amazing when this industry does not produce the very people who Senator WELLSTONE is so worried about are the ones who suffer because everybody suffers. Our standard of living suffers. Inflation goes rampant. And I do not want to take that chance.

I reserve the remainder of my time.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. STEVENS). The Senator has 1 minute, 40 seconds.

Mr. WELLSTONE. I will take 30 seconds on this.

I remind my colleague that altogether this particular exemption is only about $2.5 billion over the next 5 years. This is a whole package, worth tens of billions, that says, let us close these tax loopholes. People in the country want us to.

Second, Mr. President, in all due respect to my good friend from New Mexico, this is exactly the line we so often hear: the sky is falling in. No one is talking about eliminating the oil industry. Nobody is talking about not having oil business. We are just saying, how about closing these tax loopholes so that when companies do not pay and——

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

Mr. WELLSTONE. I thought the Chair said I had 1 minute, 45 seconds.

The PRESIDING OFFICER. I am sorry. The Chair thought the Senator meant to notify him when 30 seconds expired.

Mr. WELLSTONE. I am sorry. Let me finish very briefly and reserve the remainder of my time.

Other people pay more.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. 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 deduct ordinary 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. We phase it out 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 and 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.

The Senator has 1 minute.

Mr. WELLSTONE. Mr. President, facts are stubborn things. It is a fact that IDC's are a special exemption. With my amendment, you could still in this industry capitalize your costs, depreciate them over a longer period of time, just like with most other industries.

This is just a special exemption that most other businesses do not get. We have been talking about the tax rate in Puerto Rico. In 1993, I wanted to phase it out, even though I was sympathetic to concerns that doing so suddenly would be unfair. That didn't happen. And now, we have 7 to 10 more years provided for in this bill. My amendment says that by 1997 we have to eliminate it.

My amendment says, colleagues, that we have to make tough choices. Barlett and Steele have it right. What do you have? One person's tax code is called the "privileged person's tax law," and for everyone else, call it the "common person's tax law." It is time we understand: regular people pay more because these loopholes allow often very profitable companies—some of the largest and most powerful companies in the country—are paying less.

This is revenue that the Government does not collect. We ought to have deficit reduction here. This is between $60 billion to $70 billion of deficit reduction based on a standard of fairness. We would have more for education, more for children, more for health care, more for law enforcement.

This is a perfect example of whether or not we will be willing to vote for people we represent or whether or not we are too beholden to powerful special interests. That is what this amendment speaks to.

I ask unanimous consent that copies of my prepared statements on each of the four loopholes, elaborating on my policy rationale for closing them, be included in the RECORD before the vote.

Mr. EXON. Mr. President, is all time expired?

The PRESIDING OFFICER. All time is expired.

Mr. EXON. Mr. President, the good news is that according to my record—and I believe my colleague will agree—we have three amendments left in this tier 2 category: Pryor, Conrad and Roth, in that order.

Is that the Senator's understanding?

Mr. DOMENICI. Finance Committee—Roth. We have been calling it "Finance Committee." Yes.

Mr. EXON. Pryor, Conrad, Roth—Finance Committee.

Mr. WELLSTONE. Would the Senator from Nebraska yield for a moment, a split second?

Mr. EXON. Yes.

Mr. WELLSTONE. 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 from 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, all on the Democrat side?

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—that will put us well beyond 12 o'clock, and we will vote on them all—that we put over 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 everything else—but they would be two that we would not lay down tonight.

We would go ahead and put CONRAD's in, 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 ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

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 Medicaid 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 enacted 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 not read all of those at this time. It will consume too much time.

The bill clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, 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:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

"The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities 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 in 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 on your own. 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 speak. I 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 this is one of the 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. I yield 30 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment. I point out that the arguments against this amendment are going to be that we ought to let the States have unbridled responsibility, discretion as to how to set these standards.

I should point out that in the year 2002 in my State, which has the highest percentage of persons over 80 in the country, that we are going to have 35 percent less funds than is currently projected to meet the needs of our elderly, our frail elderly.

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

Mr. GRAHAM. If there is any prescription for abuse, it is a 35-percent cut in funds and no Federal standards.

The PRESIDING OFFICER. The Senator's time has expired. Without objection, the Senator's request is granted.

Mr. PRYOR. Mr. President, I yield 20 seconds to the Senator from Maryland, Senator MIKULSKI.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, my father was in a nursing home for 3 years. He had Alzheimer's. We could go and visit him and make sure he was OK. But one of the things we need to know is when people are in a nursing home, they are often too sick to care for themselves or they are too sick to say how they are being cared for. If we do not have Federal standards around safety and staffing to be sure that our—

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

Mr. PRYOR. Mr. President, I am looking for Senator COHEN, our cosponsor on the other side. I do not see him.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. PRYOR. If Senator MIKULSKI needs an additional 20 seconds, I will be glad to yield to her.

Ms. MIKULSKI. Mr. President, the idea of safety is absolutely crucial, that we need adequate staff, but we need to have those standards so that if anyone is too sick to say how they are being cared for, we know that we are preventing their abuse, we know that they are receiving the right medication, we know that they are being adequately cared for.

The PRESIDING OFFICER. The Senator's time has expired. The Senator has 10 seconds left.

Mr. PRYOR. Mr. President, I want to conclude by thanking the distinguished Senator from Maine, Senator COHEN, for not only being a cosponsor, but also having labored for many years in this particular field. He supports strongly this amendment. I also would like—

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

Mr. PRYOR. Mr. President, I also would like to acknowledge Senator BOXER of California who has truly spoken on many occasions and feels compassionate 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 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 connection 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 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 preadmission 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 not quiet in the Chamber. The Senator is entitled to be heard.

Mr. GRAHAM. Will the Senator from Rhode Island 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 working on some other language, but that 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 to 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 pointed 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 this evening. So 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 DOLE, 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, however, 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-Cohen amendment tonight, 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 "Amendments 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.

Senator SPECTER said, "If you would have a secret vote, 20 Republican Senators would not vote for the tax cut."

To say we are going to balance the budget, and then start with a tax cut, is like having a New Year's resolution to diet and start with a great big dessert.

Third, we take the CPI and reduce it by one-half of 1 percent. At the Finance Committee meeting, Senator DOLE said, in talking about looking at the CPI, "This is something we should have addressed years ago." This is still below what the special economist said should be a drop of between 0.7 to 2 points.

Third, we help the less fortunate in our society. Instead of a savings of $270 billion in Medicare, it is $168 billion. Instead of $187 billion in Medicaid, it is $83 billion. Welfare reform—there is $36 billion more for poor people. Discretionary spending, $79 billion more. Veterans programs are assisted. Agriculture programs are assisted. Student loan programs are helped.

This is a balanced program that makes sense and it balances the budget in a prudent way. I hope we can move in this direction.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. I yield 2 minutes to the Senator from North Dakota, Mr. President.

Mr. CONRAD. I thank the Senator from Illinois. This is an amendment for those who disagree with cutting taxes by $245 billion at the very time we are adding $1.8 trillion to the national debt. This is the amendment for those who are concerned that the Medicare and Medicaid cuts are too severe. This is the amendment for those who oppose cuts in education. This is the amendment for those who want welfare to be work-oriented but protect the children. This is the amendment for those who are concerned about the raid on rural America contained in the underlying bill. This is the amendment for those who recognize that CPI overstates the cost of living. The advisory commission to the Finance Committee said it is overstated by .7 to 2.0. That means adding $600 billion to the national debt over the next 7 years.

Mr. President, I hope my colleagues will support this amendment to fairly balance the budget.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. How much time do I have on the amendment, and how much time do they have?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes; the minority has 1 minute 50 seconds.

Mr. DOMENICI. Mr. President, let me remind Senators of a couple of things. First of all, the Consumer Price Index provides $115 billion of the money needed to balance their budget. In addition, Medicare is getting cut, or hit, or reformed $168 billion. So we are doing both Medicare and CPI. And then, third, and equally as important, the fiscal dividend that is not supposed to be there until you are in balance—that is how we thought it worked, that you get to balance and you get a fiscal dividend—they take the $170 billion fiscal dividend, before in balance, and put it in their balanced budget.

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. DOMENICI. I am pleased that the Chair is concerned, and I thank him. I want to close by saying that I really do not believe this is the kind of budget we want to adopt here tonight. I think if anybody had a real chance to look through it and go into detail, they would agree with the Senator from New Mexico.

I want to go through the three. You get $115 billion by changing the CPI by .5. I was wondering a little while ago—my friends on the Democrat side were concerned because we had not given them our amendments. Most are one page. We just got this one now, in case anybody wonders, which is all right. I am not complaining. It is just that we do not know very much about it. These few little facts are about the best I can do.

Mr. FORD. Now you know how we feel when we have 2,000 pages.

Mr. DOMENICI. I think you got those pursuant to the rules. They were before you all. This was presented right here, tonight, to us. I do not want to take any more time. I will yield the remainder of my time.

Mr. SIMON. Mr. President, I yield 50 seconds to my colleague from Virginia.

Mr. ROBB. Mr. President, I thank my colleague and friend from Illinois. I will not make a full statement at this time. I will put one in the RECORD. Suffice it to say—I say this to my good friends on the other side of the aisle—this is where we ought to be going. This is a tough, fair, principled budget that reflects the kind of distribution that we ought to be looking toward if we are going to come up with a reasonable solution to the fiscal challenges that are facing the country today, and it does it without a $245 billion tax cut that we simply cannot afford and should not be giving under the circumstances.

I am pleased to join my fiscally responsible colleagues in offering an alternative that I think meets the test that this country is looking for us to meet.

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

Mr. SIMON. I yield myself the remainder of the time.

In terms of the fiscal dividends that Senator DOMENICI is talking about, we balance the budget also, so we have the same savings on interest.

In terms of the size of this—and I recognize this is not going to pass tonight—but I think this may be the basis for a compromise that we may move toward. I think there is a lot of common sense in this.

In terms of the CPI, it is less than was recommended to the Finance Committee by the economic experts, and what it means for a person who is in the median on Social Security getting $770, it would be a reduction of $3.85 for which that person gets more help on Medicare and Medicaid.

I think seniors would welcome this proposal.

Mr. DOMENICI. I yielded back my time, but I ask unanimous consent to retrieve 1 minute of it to yield to Senator NICKLES.

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

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 that was proposed by a group of economists that said we should use from 0.7 percent even and maybe above 1 percent. Whatever the percent 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, all the amendments have been 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 limited to 8 minutes after the first rollcall 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 wherever 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 be 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 indicating 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. Is all time yielded back on this amendment? Does the Senator from Nebraska yield back the 30 seconds?

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. 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.

VOTE ON AMENDMENT NO. 2964

The PRESIDING OFFICER. The clerk will call the roll on amendment No. 2964.

The assistant legislative clerk called the roll. The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—99

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

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—it says, "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, this amendment pretends 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, we may finish.

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:

[Rollcall Vote No. 508 Leg.]

YEAS—79

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Baucus	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Harkin	Murray
Breaux	Hatch	Nickles
Brown	Heflin	Nunn
Bumpers	Helms	Pell
Burns	Hollings	Pressler
Byrd	Hutchison	Pryor
Campbell	Inhofe	Robb
Cochran	Inouye	Rockefeller
Cohen	Johnston	Roth
Conrad	Kassebaum	Santorum
Coverdell	Kempthorne	Sarbanes
Craig	Kennedy	Shelby
D'Amato	Kerrey	Simon
DeWine	Kerry	Smith
Dole	Kohl	Snowe
Domenici	Kyl	Specter
Dorgan	Lautenberg	Stevens
Exon	Leahy	Thurmond
Faircloth	Levin	Warner
Feingold	Lott	Wellstone
Feinstein	Lugar	
Ford	McCain	

NAYS—20

Ashcroft	Daschle	Lieberman
Bennett	Dodd	Mack
Bingaman	Gorton	Reid
Bond	Grams	Simpson
Bryan	Gregg	Thomas
Chafee	Hatfield	Thompson
Coats	Jeffords	

So the amendment (No. 2965) was agreed to.

Mr. HELMS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2969

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 2969 offered by the Senator from Colorado [Mr. BROWN]. The yeas and nays are ordered.

There will be 1 minute equally divided on the question.

Who yields time?

Mr. DOLE. The time is running.

The PRESIDING OFFICER. Time is running. Who wants to claim the 30 seconds on each side?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for 26 seconds.

Mr. BROWN. The measure that is before the Senate takes a 1993 limitation on business' ability to deduct salaries in excess of $1 million and applies it, not to just publicly traded corporations to which it applies to now, it applies it to nonpublicly traded organizations and other business. It is a fairness question. It is grandfathered for any existing contracts, but I might say the money that is raised goes to reduce the Social Security earnings penalty.

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

Mr. EXON. I yield back our 30 seconds.

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:

[Rollcall Vote No. 509 Leg.]

YEAS—99

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

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.

AMENDMENT NO. 2970

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 $600 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 antifraud 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 violation 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 I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 510 Leg.]

YEAS—43

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

NAYS—56

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

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 falls.

AMENDMENT NO. 2971

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 $60 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, that 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 all about.

Mr. EXON. The pending amendment would add two new matters to the bill and violate the prohibition of nongermane 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 question is on the motion to waive the Budget Act.

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:

[Rollcall Vote No. 511 Leg.]

YEAS—25

Abraham	Gramm	Lautenberg
Biden	Grams	McCain
Bradley	Grassley	Moynihan
Brown	Gregg	Pell
Coats	Hutchison	Robb
Cohen	Jeffords	Roth
Dole	Kennedy	Thompson
Faircloth	Kerry	
Feingold	Kohl	

NAYS—74

Akaka	Chafee	Ford
Ashcroft	Cochran	Frist
Baucus	Conrad	Glenn
Bennett	Coverdell	Gorton
Bingaman	Craig	Graham
Bond	D'Amato	Harkin
Boxer	Daschle	Hatch
Breaux	DeWine	Hatfield
Bryan	Dodd	Heflin
Bumpers	Domenici	Helms
Burns	Dorgan	Hollings
Byrd	Exon	Inhofe
Campbell	Feinstein	Inouye

Johnston	Mikulski	Shelby
Kassebaum	Moseley-Braun	Simon
Kempthorne	Murkowski	Simpson
Kerrey	Murray	Smith
Kyl	Nickles	Snowe
Leahy	Nunn	Specter
Levin	Pressler	Stevens
Lieberman	Pryor	Thomas
Lott	Reid	Thurmond
Lugar	Rockefeller	Warner
Mack	Santorum	Wellstone
McConnell	Sarbanes	

The PRESIDING OFFICER. On this vote, the yeas are 25, the nays are 74. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is well taken and the amendment falls.

AMENDMENT NO. 2972

The PRESIDING OFFICER. The question occurs on amendment 2972, offered by the Senator from West Virginia.

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

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

The Senate will please come to order.

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 will suspend. Senators will please come to order.

Mr. BYRD. Senators will find on their desks 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 is closed by the House by a phaseout in 4 years: closed by the bill by a phaseout in 5 years. I say, let us go with the House, phase out the loophole in 4 years and restore $712 million in highway funds to the 48 States.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, for those who thought the highway demonstration programs were good programs and all the projects were good projects, obviously you ought to vote for this.

They were never spread equally across the land. They had very significant preferential treatment, depending upon a lot of things. So I think the committee that decided to do this acted appropriately, especially since they applied the savings to a very good cause.

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

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced, yeas 46, nays 53, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—46

Abraham	Ford	Moseley-Braun
Akaka	Glenn	Moynihan
Baucus	Harkin	Murray
Biden	Hatfield	Pell
Boxer	Heflin	Pressler
Breaux	Inouye	Pryor
Bryan	Jeffords	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Specter
Dorgan	Leahy	Stevens
Exon	Levin	Wellstone
Feingold	McConnell	
Feinstein	Mikulski	

NAYS—53

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

So, the amendment (No. 2972) was rejected.

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. 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. Mr. President, 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 Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Senate will please come to order. Those Senators in front of the Chair, please take your conversations to the cloakroom.

Mr. CHAFEE. Do I start my 30 seconds over?

The PRESIDING OFFICER. The Senator has 16 seconds remaining.

Mr. CHAFEE. Well, I will start. This amendment adopts the same definition of "disabled" as we used in the welfare bill which we 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. 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 opposition.

Mr. DOLE. I 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, make them entitlements, and give them block grants, and make it impossible for Democrats or Republicans to administer the program.

We had this argument. We discussed it long and hard with the Senator from Rhode Island. I hope we would defeat this amendment. If you do not have any faith in your Governor, then vote the other way.

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

The question is on agreeing to amendment No. 2973.

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 result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—60

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

NAYS—39

Abraham	Cochran	Grams
Ashcroft	Coverdell	Grassley
Bennett	Craig	Hatch
Bond	D'Amato	Helms
Brown	Dole	Hutchison
Burns	Faircloth	Inhofe
Campbell	Gorton	Kempthorne
Coats	Gramm	Kyl

Lott	Nickles	Smith
Lugar	Pressler	Thomas
Mack	Roth	Thompson
McCain	Santorum	Thurmond
Murkowski	Shelby	Warner

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.

Mr. 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 Louisiana.

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

Mr. BREAUX. Mr. President, I say to my colleagues, I urge my Republican colleagues to vote for this tonight, because NEWT 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.

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

Mr. DOMENICI. I yield my time to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against this amendment. This amendment would build another entitlement program, another brandnew entitlement program into the Tax Code. According to the Joint Tax Committee, the Breaux amendment would increase outlays by $37 billion over 7 years. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Breaux amendment. 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 53, nays 46, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—53

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

NAYS—46

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

So the motion to lay on the table the amendment (No. 2963) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2975, AS MODIFIED

The PRESIDING OFFICER. 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(1) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "55 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.

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

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

The PRESIDING OFFICER. They have already been ordered.

Mr. PRYOR. Mr. President, I am the cosponsor on this side of the Bond amendment. I strongly support this amendment. We hoped, originally, that we would be able to permit the self-employed to deduct 100 percent of their insurance premiums, and this looks like they are going to take about 55 percent. This is the best we could do, but it is better than in the past.

Mr. WELLSTONE. Can I ask what the offset is?

Mr. DOMENICI. Mr. President, the time has expired.

Mr. DOLE. We did not need an offset. We found another area where they overestimated or underestimated, or whatever it is.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I wonder, will the Senator withdraw the yeas and nays?

Mr. BOND. We would like the yeas and nays since everybody is here.

Mr. DOMENICI. OK.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

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

The legislative clerk called the roll.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—99

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

So the amendment (No. 2975), as modified, was agreed to.

BIDEN MOTION TO COMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion to commit with instructions offered by the Senator from Delaware.

The Senator from Delaware is recognized for 30 seconds.

Mr. BIDEN. Mr. President, one thing all Americans say they care about is to get a college education for their children.

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 they 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:

[Rollcall Vote No. 516 Leg.]

YEAS—55

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

NAYS—44

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

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 was agreed to.

AMENDMENT NO. 2976

The PRESIDING OFFICER. The question occurs on amendment No. 2976 offered by the Senator from Maine. Ms. SNOWE, on which the yeas and nays have been ordered.

The Senator from Maine.

Ms. SNOWE. I thank the Chair.

First of all, I would like to say that this amendment is cosponsored by Senators D'AMATO, SHELBY, BIDEN, MACK, MURKOWSKI, HUTCHISON, GRAMM, COHEN, and JEFFORDS.

This amendment is a sense of the Senate that would provide coverage under Medicare for breast and prostate cancer.

When changes were made in Medicare back in 1993, there was an inadvertent omission whereby oral drug treatment was not covered under Medicare for breast and prostate cancer. It is a cost-saving measure.

Mr. President, I will ask unanimous consent to vitiate the yeas and nays and ask for a voice vote.

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

Who yields time?

The Senator from Nebraska.

Mr. EXON. I yield my time back.

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

The amendment (No. 2976) was agreed to.

AMENDMENT NO. 2977

The PRESIDING OFFICER. The question occurs on amendment No. 2977 offered by the Senator from North Dakota.

The Senator from North Dakota is recognized for 30 seconds.

The Senator will suspend. The Senate will come to order.

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

The PRESIDING OFFICER. 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 Nebraska.

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 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:

[Rollcall Vote No. 517 Leg.]

YEAS—47

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

NAYS—52

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

Simpson	Thomas	Warner
Smith	Thompson	
Specter	Thurmond	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The amendment falls.

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.

LIST OF EXTRANEOUS MATTER (THE BYRD RULE)

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 not constitute a determination of extraneousness by the Presiding Officer of the Senate.

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 from the bill. A Senator must raise a point of order against the provision and the Presiding Officer must sustain the point of order. The Byrd rule may be waived in the Senate by an affirmative vote of 60 Senators.

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)

EXTRANEOUS PROVISIONS—SENATE BILL

Provision	Comments/Violation
	AGRICULTURE, NUTRITION, AND FORESTRY
Sec. 1113(a)(4), 1113(c), and (e) (2)	Clarification on peanut pool and sale, lease, or transfer of farm poundage quota for 1991 through 2000 crops of peanuts and allows non-quota peanuts to become available if market price exceeds 120 percent of loan rate; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1115	Savings adjustment; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1116	Sense of the Senate regarding tax provisions relating to ethanol; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	ARMED SERVICES
	Naval Petroleum Reserve Sale (Elk Hills)
Sec. 2; Sec. 7421a(f)	Requirements on Elk Hills production until sale is completed; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(j)	Requirement that a sale cannot take place unless DOE provides a notice to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(k)	Expedited procedures for Congressional consideration of a resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(l)	Notice to Congress of noncompliance with deadlines; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(m)	Requirement that GAO monitor DOE sale and report to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Naval Oil Shale Reserve Sale
Sec. 2; Sec. 7421b(b)	Application of Sec. 7421(h), (j), (k), (l), & (m) to the Oil Shale Reserve sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421b(b)(C)	Expedited procedures for consideration of joint resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 3002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would require the Secretary of Treasury to report to the Congress on the feasibility of a private deposit insurance system.
Sec. 3001(d)	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This subsection outlines a merger of the two deposit insurance funds for banks (BIF) and thrifts (SAIF), but item (4) of this subsection makes implementation of all of subsection (d) contingent on a future act of Congress (which will be necessary to eliminate all thrift charters). Therefore, the entire subsection 3001(d) will have no effect when reconciliation is enacted.
	COMMERCE, SCIENCE AND TRANSPORTATION
Sec. 4001(a)(C), beginning on p. 207, line 1 with "unless" through "1998" on line 23.	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section 4001 directs the FCC to allocate spectrum to applicants by auction spectrum, but exempts certain parts of the spectrum from being sold at auction. Section 4001(a)(C) lists as one of the exemptions the spectrum to be used for advanced/digital television, with a qualification. That is, the FCC can't auction spectrum for digital TV "unless" the FCC submits within six months a new proposal for allocating this spectrum by auction and the Congress "takes action to approve the plan" (i.e. enacts a later law with the President's signature). Because the prohibition on auctioning spectrum for digital TV stands on its own and is unaffected by the possibility that Congress could always come back later and change the law, the language telling the FCC to do a new plan that would have to be approved by Congress has no impact on the receipts yielded by the auctions that are authorized in this bill, and therefore that language is extraneous.
Sec. 4002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would amend a schedule of regulatory fees charged by the FCC to broadcasters. These fees were established by OBRA '93 as permanent offsetting collections to be "credited to the account providing appropriations" to the FCC. Two months later, the Commerce-Justice-State appropriations bill for 1994 amended OBRA '93 by saying that these fees "shall be collected only if, and only in the total amounts, required in Appropriations Acts." Therefore, if there is no appropriations action, then these fees cannot be collected. Since future collection of the fees is contingent on future action by the Congress, changing the schedule of fees in this reconciliation bill has no budgetary effect, so the provision is extraneous.
Sec. 4021	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section limits the fee the Coast Guard can charge for inspection of small vessels. Provision does not sunset and causes outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Interest for Oil Spill Recovery Institute.	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending by allowing interest in Oil Spill Liability trust fund attributed to the Oil Spill Recovery Institute (OSRI) be used by the Institute. Provision may or may not sunset, due to interaction with next provision, dealing with Section 1012 in Alaska. Provision will cause outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Section 1012 in Alaska	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending beginning eleven years after enactment of the 1995 Coast Guard authorization bill by mandating principal attributed to the Oil Spill Recovery Institute (OSRI) in the Oil Spill Liability trust fund be used for oil spill liability and compensation activities in Alaska.
Sec. 4033	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides change in current law to the Local Rail Freight Assistance program allowing for disaster assistance for railroads.
Sec. 4034	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides for additional eligible state activities under the Local Rail Freight Assistance program.
	ENERGY AND NATURAL RESOURCES
	Subtitle A—United States Enrichment Corporation
Sec. 5002	Enrichment Corporation statement of purpose; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5004(d)(2) & (3)	Enrichment Corporation amendments dealing with the scoring of the proceeds from the sale of the corporation; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(a)(1)(B)	Requirement that DOE accept low level nuclear waste from any operator of an enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(c)	Waiver of liability for State or Interstate Compact's requirement to accept low level nuclear wate from any enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle C—Arctic Coastal Plain Leasing and Revenue Act
Sec. 5202	Purpose and policy; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5207(d) second sentence	Special Areas reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Portion of Sec. 5215(b)	Reporting requirements (beginning with line 12 on page 48 through line 2 on page 49); Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle D—Park Entrance Fees
Sec. 5300(a)(3)	Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5300(a)(10)	Report to Congress on fee collections; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5301	Authorizes Secretary to enter into challenge cost-share agreements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5302	Cost recovery for damage to National Park resources; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5305(b)(2) second sentence	Reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle E—Water Projects
Sec. 5410 second sentence of subsection (2)	Hetch Hetchy dam authorizations for Yosemite operations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle F—Oil and Gas Royalties
5509	Royalty in Kind; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5510	Royalty Simplification Audit and Reporting Requirements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5512	Delegation to States; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle H—Mining
5709	Uses and Objectives of Mine Reclamation Fund; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle K—Radio and Television Communication Site Fees
Sec. 5920	CBO scores no impact from communicatoin fees; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
	ENVIRONMENT AND PUBLIC WORKS
Sec. 6003(a)	Findings section regarding highway minimum allocation program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICARE
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	Medicare Choice
Sec. 1895A (c) (2) (B)	"the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' " Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895A (b) (1) (B) (iii)	MSAs—costs $5 relative to the savings of Medicare Choice. Separable. Probably a violation. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895M (d) (3)	"The Secretary shall conduct an analysis of the measurable input cost differences across payment areas"and "The Secretary shall also determine the degree to which medicare beneficiaries have access"and "the Secretary shall submit a report" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895M (f)	Demonstration project on market-based reimbursement and competitive pricing. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895R (c)	Report on the temporary certification of coordinated care plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895R (f)	Partial capitation demonstration Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
	Part A provisions
Sec. 7012 (c)	Development [of] National Prospective Payment Rates for Current Non-PPS Hospitals Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7032	Incentive payments to SNFs. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7037	Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part B provisions
Sec. 7043 (c)	Study & report of physician fee schedule. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7044 (c)	Upgraded Durable Medical Equipment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7050	Physician Supervision of Nurse Anesthetists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part A & B provisions
Sec. 7056	Treatment of assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (a)	Nothing in this Act shall be construed to change the status under title XVIII of ... (Indian Health Centers), Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (b)	Conforming amendment to change the name/organization for Christian Scientists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7061 (a)	(C) Share of Savings—Bonus payments to home health agencies. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7061 (a)	(f) Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Rural Areas
Sec. 7071	Medicare-dependent small rural hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7072	Medicare rural hospital flexibility: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7073	Rural emergency access care hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7074	Payments to physicians in shortage areas: increases OL by $0.4B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7075	Direct fee schedule payments to physician assistants and nurse practitioners: increases OL by $0.3B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7076	Demonstration projects to promote telemedicine. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7077	Prospective Payment Assessment Commission report on updates for urban Medicare-dependent hospitals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Health Care Fraud & Abuse
Sec. 7103	Health Care Fraud and Abuse Guidelines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7112	Minimum exclusion period for individuals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7116	Clarification of and additions to exceptions to anti-kickback penalties. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7121	Establishment of the health care fraud and abuse data collection program. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7143	Injunctive relief relating to federal health care offenses. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7144	Grand jury disclosure. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7148	Laundering of monetary instruments. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7149	Authorized investigative demand procedures. Is this a necessary term or condition? Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Other provisions for trust fund solvency
Sec. 7173	Transfers of certain part B savings to HI trust fund. (i.e., medicare lockbox) Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICAID
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	The provisions listed here as Sec. 2102 through Sec. 2137 are new sections added by Sec. 7191(a) of the reconciliation bill.
Sec. 2102 (b)(7)	Plan must include "a description of the average amount paid per discharge" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2105 (b)	Each State with a medicaid plan shall establish and maintain an advisory committee (which shall aid in) the development, revision, and monitoring the performance of the medicaid plan" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2106	Secretary shall create a Medicaid Task Force. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (c)	"The medicaid plan shall provide medical assistance for immunizations." Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (d)	"The medicaid plan shall provide prepregnancy planning services and supplies" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (e)	"A medicaid plan may not deny or exclude coverage on the basis of a pre-existing condition" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (f)	"A medicaid plan shall not impose treatment limits on mental illness services" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2116	Causes of action Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2117	Spousal impoverishment mandate. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2122 (g)	Super-block grant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2123 (g), (h)	Limitations on use of funds. "No payment shall be made to a State under this part for expenditures for items"(g) abortions; (h) assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2137	Nursing home standards. "Each medicaid plan shall provide for the establishment and maintenance of procedures for nursing facilities which furnish services under the plan."—mandate Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (1)	"No payment shall be made to a State under this part for medical assistance for medical assistance for covered outpatient drugs unless the manufacturer of the drug" "No payment shall be made under this part to a State that requires manufacturer rebates" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (2)	"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 must" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7194	Authorizes new demonstration project. No appropriation. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7195	CBO Report requiring analysis of effect of block grant on health insurance status. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—NON-HEALTH
Sec 7201: 401	Purpose of Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(C)	3 month notification to State with Indian tribes exercising funding option—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(D) (i) and (ii)	Additional payments for EA where State plan is modified in 1994. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(a)(2)(D) (iii)	Directed Scoring Post 2000—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(3), (4)(B)	Supplemental Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(b)(1)	Limitation on admin expenditures—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(2)	Authority to treat interstate immigrants under rules of former states —Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(4)	Authority to operate employment placement program with grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(5)	Authority to 30% transfer grant to Child Care Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(f)	Job Placement Performance Set Aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(h)	Contingency Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
404(d)	Required Penalties against Individuals—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(e)	Non Displacement in Work Activities—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(f)	Sense of Congress on use of job training fund—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(g)	Encouragement to Deliver Child Care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
405	Limitations and Requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(a)	Congressional Findings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(b)	State option to deny assistance to out of wedlock births to minor children: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(c)	State option to deny assistance for additional births: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(1) and (2)	Requirement that teenage parents live at home or in supervised arrangements: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(3)	Grants to States to provide supervised living—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(e)	Requirement that teenage parents attend high school—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(f)	Grant to States that reduce out-of-wedlock birthrate—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(g)	Denial of assistance by the State not limited to these requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(i)	Report to Congress on Automation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(j)	Report to Congress on participation rates compliance—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410	Research, Evaluations, State Rankings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410(h)	Direct Spending for additional evaluations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
411	Census Bureau Study—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
412(b)	Hold harmless for cost neutrality from waiver conditions—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
413	State and County Run Demonstrations—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
414(a)	Purpose of provision—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
415	Assistant Secretary for Family Support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
418	High Performance Bonus Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
419(b)	Additional Child Care Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
420	Single state agency in charge of child care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
421	Tax Refund offset to states for overpayments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7202	Services Provided by Charitable/Religious, or Private Organizations Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7203	No funds provided to institutions may be used for sectarian worship—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7204	Census data on grandparents as primary caregiver—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7205	Study of Effect of Welfare Reform on Grandparents as Caregivers—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7206	Development of new Social Security Card Authorization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7207	Funds used by organizations can not support or oppose publicly without disclosure of receipt of funds. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7208	Modification of JOLI program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7209	Demo project for School Utilization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7211	Parental Responsibility Contracts—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7212	Federal funds must be spent in accordance with laws and procedures applicable to state revenues—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7216	Secretary of HHS must submit list of technical amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7251(e)	Supplemental Funding for Substance Abuse—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7263	Additional requirements for representative payees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7271	Annual Report to Congress on SSI—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7272	Improvements to Disability Evaluation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7273	Study of the Disability Determination Process—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7274	Study by GAO on impact of Amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7281 to 7287	National Commission on Future of Disability—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7291	Repeal of Maintenance of Effort for State SSI Supplement—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7302	Distribute child support collections to families off welfare first—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7303	Rights to notifications and hearings for those applying for services or a party to these actions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7344(b)	Extension of enhanced match and new funds matching funds for ADP development—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7345	Training and technical assistance. child support demonstrations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7346	Changes in the annual report to Congress—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7351	National Child Support Guidelines Commission—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7354	Non-liability for depository institutions providing financial records to child support agencies—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(a): 454(C)(b) and (c)	Permissive fees and excess costs of enforcement. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(b)	Sense of Senate on how to collect fees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7377	Sense of Senate on inability of non-custodial parents to pay child support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7381	Grants to State for Access and Visitation Programs—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7406	Information Reporting, requiring states to provide names to INS—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7411	Reductions in Federal Government Positions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7412	75% reduction in Federal positions dealing with AFDC—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7413	Sense of Senate that reductions should come from Washington DC office—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7422	Establish National Goals for teenage pregnancy prevention—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7442	Sense of Senate on legislative accountability for unfunded mandates—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7443	Sense of Senate Regarding Enforcement of Statutory Rape—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7444	No prohibition on sanctioning an individual when testing positive for controlled substances—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7445	Abstinence Education set aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7481	Sense of Senate on Cost of Living Adjustments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—REVENUES
Sec. 12401(f)	Requires the Secretary of Labor to implement a "Business Awareness Program" to educate and encourage business to benefit from the Work Opportunity Tax Credit. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 6039F(d)	Beginning with the phrase, "notwithstanding any other provision of law..." requires the Secretary of Treasury to publish in the Federal Register the names of expatriates. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12874(c)	Requires the trustees of the Combined Fund (coal industry retirees) to provide documents to contributors if requested. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Requires notices to charitable beneficiaries of charitable remainder trusts that a remainder has been created. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Provides exceptions to the notification requirements (to charitable beneficiaries of the creation of or continuation of charitable remainders) if the Secretary determines it is not necessary for efficient administration of tax law. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12878	Section 2878(e) authorizes the Secretary of the Treasury to prescribe regulations regarding Modified guaranteed contracts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12904(a) (12)(D)Requiring written notice to each employee eligible to participate in certain qualified cash or deferred arrangements and matching contributions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues..	
	GOVERNMENTAL AFFAIRS
	There are no extraneous provisions in this title.
	JUDICIARY
	There are no extraneous provisions in this title.
	LABOR AND HUMAN RESOURCES
Sec. 10002(c)(2)(C)	Indirect costs for direct loans may not exceed 50% of the section 458 funds and they may not be used for promotion the direct loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10002(g) p. 1422 lines 5-8	Sense of the Senate statement that the .85 fee to institutions should not be passed on to students. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10003(d) & (e)	Permits the development. and distribution an use of an electronic version of the free federal common application for by guaranty agencies and lenders. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (g)	Permits guarantors to use the funds from the federal payment of the Administrative Cost Allowance to pay for any means of monitoring the enrollment and repayment status of borrowers. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (h)	Guaranty agencies are prohibited from using federal reserves for marketing, advertising, or promotion of the guaranteed loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10007(a)(4)(A)(ii)	Provision regarding Sallie Mae and full faith and credit of the United States. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	VETERANS' AFFAIRS
	Veterans' Affairs Committee reconciliation language contains no Byrd Rule Violation

Note: Prepared by SBC majority staff, October 25, 1995 (12:55 pm) and by the Staff of the Committee on the Budget, pursuant to Section 313(c) requiring a list of items considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E). The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

Mr. EXON. Mr. President, the chairman of the Budget Committee was kind enough to discuss with me in advance the list that he just submitted for the RECORD. I, in turn, have shared with him my view of which items in the bill violate the Byrd rule against extraneous matter in reconciliation.

There is a great deal of agreement on these two lists, but some differences persist. To make the RECORD more complete, I submit my list of extraneous provisions and ask unanimous consent that it be printed in the RECORD.

At the close of debate on the bill, after Senators and the Parliamentarian have had a full, fair chance to review these lists, I intend to raise an omnibus point of order under the Byrd rule against a large number of provisions that we have determined to be extraneous. I ask unanimous consent that my list be printed in the RECORD to give Senators the maximum amount of notice as to which provisions are under review for that purpose.

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

LIST OF BYRD RULE VIOLATIONS TO THE BALANCED BUDGET RECONCILIATION ACT OF 1995

(Prepared by the Democratic Staff of the Senate Budget Committee, October 25, 1995)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
	Title I		
	COMMITTEE: AGRICULTURE		
	Compliance: 1,5 yes; 7 no		
1113(b)(3)(B)	Creates a temporary quota for seed peanuts	313(b)(1)(A)	No budgetary impact.
1111(b)	Terminates Tree Assistance program	313(b)(1)(A)	No budgetary impact.
1113(c)	Provides for Sale, Lease or Transfer of Peanut quotas	313(b)(1)(d)	Savings are incidental.
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustment to prorate payments to farmers if deficit targets aren't met	313(b)(1)(A)	No budgetary impact.
1116	Sense of the Senate regarding Ethanol	313(b)(1)(A)	No budgetary impact.
1201	Establishes Environmental Incentives Program		Ag title out of compliance—spends money.

BYRD RULE VIOLATIONS, RECONCILIATION 1996

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE: II		
	COMMITTEE: ARMED SERVICES		
	Compliance 1st Year: No; 5-Years: Yes; 7-Years: Yes		
7421a.(a)	Sale Required. The sale of the Elk Hills, CA site in the NPR.	313(b)(1)(E)	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 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
7421a.(e)	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.	313(b)(1)(A)	This provision amounts to California's price for waiving its claim to the land within the NPR. This 7 percent set-aside does not score because the spending is subject to appropriations action.
7421.a.(f)	Maintaining Elk Hills Unit Production. Sets requirements for Elk Hills to maintain production till sale is complete.	313(b)(1)(A)	This provision provides no change in revenue or outlays and is thus extraneous.
7421a.(j)(3)	Notice to Congress. Establishes a sense of the Congress regarding the Secretary of the Energy's approval of the Elk Hills site in the NPR.	313(b)(1)(A)	As a sense of the Senate, this provision produces no changes in revenue or outlays and is thus extraneous.
7421a.(k)	Joint Resolution of Approval. Provides fast track authority for congressional approval of the sale of the Elk Hills site in the NPR.	313(b)(1)(A)	This provision does not produce any change in revenue or outlays and is thus extraneous.
7421.a(1)	Noncompliance with Deadlines. Requires the Secretary of Energy to notify Congress if the sale is delayed.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.a(m)	Oversight. Requires the Comptroller General to monitor the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(a)	Sale Required. The sale of reserves in the NPR other than that at Elk Hills, CA.	313(b)(1)(E)	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.
7421.b.(b)	Administration of Sale. Applies subsections c, d, h, i, j, k, l, m, and n or section 7421.a. of this title to the sale of sites other than Elk Hills.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(b)(C)	Joint Resolution of Approval. Provides fast track authority for congressional consideration of the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE III		
	COMMITTEE: BANKING, HOUSING, AND URBAN AFFAIRS		
	Compliance: Yes		
3002	Deposit Insurance Study. Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate)
3001(d)	Merger of BIF and SAIF	313(b)(1)(A)	Has no impact on the deficit.
	TITLE IV		
	COMMITTEE: COMMERCE, SCIENCE, AND TRANSPORTATION		
	Compliance: Yes		
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate)
4001(a)(C)(i)(ii)	Spectrum language p. 207, lines 2–23	313(b)(1)(A)	This language has no impact on spending.
4021	Limits on Coast Guard User Fees	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(a)	Oil Spill Recovery Institute	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(A)	Use of Section 1012 in Alaska	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4033	Disaster Funding for Railroads	313(b)(1)(A)	This section clarifies procedures that allow the Secretary of Transportation to use LRFA for railroad disaster assistance. The section has no impact on the deficit. (not in cost estimate)
4034	Grade-crossing eligibility	313(b)(1)(A)	This section expands the list of activities eligible for LRFA and has no impact on the deficit. (not in cost estimate)
	TITLE V		
	COMMITTEE: ENERGY AND NATURAL RESOURCES		
	Compliance in 1, 5 and 7		
Subtitle A, Uranium Enrichment Corporation:			
5002	Statement of Purpose	(b)(1)(A)	Non-budgetary.
5004(d)(2) & (3)	Proceeds	(b)(1)(A)	Non-budgetary.
5013(a)(1)(B)	Low-Level Waste	(b)(1)(A)	Non-budgetary, requirement that DOE accept low-level waste from any operator of an enrichment facility.
5013(c)	Low-Level Waste	(b)(1)(A)	Non-budgetary, waiver of liability for State or Interstate Compact's requirement to accept low level nuclear waste from any enrichment facility.
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the State of California for the purpose of creating a low-level radioactive waste site.
Subtitle C, ANWR:			
5202	Purpose and Policy	313(b)(1)(D)	Non-budgetary.
5206	Adequacy of 1987 EIS	313(b)(1)(A)	Extraneous; no budgetary impact. Overrides the impact assessment requirements of the National Environmental Policy Act (NEPA) by declaring that the 1987 environmental impact statement satisfies the requirements of NEPA.
5702(d), second sentence	Special Areas	313(b)(1)(A)	Non-budgetary, reporting requirements to Congress.
5212	Expedited Judicial Review	313(b)(1)(A)	Extraneous, no budgetary impact. Limits complaints seeking judicial review to 90 days after date of any regulation.
5213	Rights of way Requirements	313(b)(1)(A)	Extraneous, no budgetary impact. Overrides existing law (ANILCA's title XI) which delineates procedures for transportation rights of way within the Alaska refuges, including the ANWR.
5215(b)	New Revenues	313(b)(1)(A)	Non-budgetary, reporting requirements.
Subtitle D, Park Entrance Fees:			
5300(a)(3)	Fees	313(b)(1)(A)	Non-budgetary, authorization of appropriations.
5300(a)(10)	Fees	313(b)(1)(A)	Non-budgetary, report to Congress on fee collections.
5301	Challenge Cost-Share Agreements	313(b)(1)(A)	Non-budgetary, authorizes Secretary to enter into challenge cost-share agreements.
5302	Cost Recovery	313(B)(1)(A)	Non-budgetary, cost recovery for damage to National Parks resources.
5305(b)(2)	Allocation and Use of Fees	313(b)(1)(A)	Non-Budgetary, reporting requirements to Congress. (second sentence)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle E, Water Projects:			
5510(2)	Hetch Hetchy Dam	313(b)(1)(A)	Extraneous, no budget impact. Sets up fund subject to appropriations.
Subtitle F, Federal Oil and Gas Royalties:			
5509	Royalty In Kind	313(b)(1)(A)	Extraneous, no budgetary impact. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	313(b)(1)(A)	Extraneous, no budgetary impact. Requires Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	313(b)(1)(A)	Extraneous, no budgetary impact. Delegates certain auditing responsibilities to states.
5513	Performance Standard	313(b)(1)(A)	Extraneous, no budgetary impact. Changes the standards for assessing civil penalties.
Subtite H, Mining:			
5709	Use and Objectives of State Funds	313(b)(1)(A)	Extraneous, no budgetary impact. Stipulates how monies to states can be spent.
Part K: 5920	Radio and TV Site Communications Fees	313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by this level beginning in 1996.
	TITLE VI		
	COMMITTEE: ENVIRONMENT & PUBLIC WORKS		
	Compliance in 5 and 7, not in 1		
Section 6002(c)	Rescission of appropriated demonstration projects	313(b)(1)(C)	These demonstration projects are not within EPW's jurisdiction.
	TITLE VII—SPENDING		
	COMMITTEE: FINANCE		
	Compliance: No in 1996 and 1996–2000		
Chap. 1	Medicare Choice Plans		
1895A(b)(1)(B)	Medical savings accounts	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
1895A(c)(2)(B)	Special rule for end-stage renal disease	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(d)(3)	Report to the Congress on Medicare Choice	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(f)	Demonstration project on market-based reimbursement and competitive pricing.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(c)	Report on the temporary certification of coordinated care plans.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(f)	Partial capitation demonstration	313(b)(1)(A)	Produces no change in outlays or revenues.
Chap. 2:	General provisions related to Part A		
7012(c)	Development National Prospective Payment Rates for Current Non-PPS Hospitals.	313(b)(1)(A)	Requires Secretary of HHS to develop a proposal and recommendations. Produces no change in outlays or revenues.
7013(c)	Hospital-specific adjustment for capital-related costs.	313(b)(1)(D)	Redistributes payments among hospitals. Merely incidental to deficit reduction.
7013(d)	Revisions of exceptions process under PPS	313(b)(1)(D)	Changes exceptions process. Merely incidental to deficit reduction.
7036	Medical review process	313(b)(1)(A)	Requires HHS to establish a medical review process to examine effects of provisions on extended care services. According to CBO, produces no change in outlays or revenues.
7037	Report by Prospective Payment Commission	313(b)(1)(A)	Requires ProPAC to submit a report on SNF services. Produces no change in outlays or revenues.
Chap. 3:	Provisions Relating to Part B		
7043(c)	Payments for clinical lab diagnosis services study and report.	313(b)(1)(A)	Requires HHS to prepare study of fee schedule for clinical labs. Produces no change in outlays or revenues.
7044(c)	Upgraded Durable Medical Equipment	313(b)(1)(A)	Produces no change in outlays or revenues.
7050	Physician supervision of nurse anesthetists	313(b)(1)(A)	Requires HHS to revise regulations on anesthesia services. Produces no change in outlays or revenues.
Chap. 4:	Provisions Relating to A and B		
7056	Treatment of Assisted Suicide	313(b)(1)(A)	Prohibits payments for treatment of assisted suicide. Produces no change in outlays or revenues.
7057	Administrative provisions	313(b)(1)(A)	Codifies current status of Indian health facilities and Christian Science Providers as Federally qualified health centers. Produces no change in outlays or revenues.
7061(a)	Report to ProPAC	313(b)(1)(A)	Requires PROPAC to submit an annual report to Congress on Home Health payment methodology. Produces no change in outlays or revenues.
Chap. 5:	Rural Areas		
7071	Medicare-dependent, small, rural hospital payment extensions.	313(b)(1)(B)	Re-institutes Medicare Dependent Hospital program. Costs $0.4 billion over 7-years.
7072	Medicare rural hospital flexibility program	313(b)(1)(B)	Designates critical access hospitals in rural areas. Costs $0.2 billion over 7-years.
7073	Rural Emergency Access Care hospitals	313(b)(1)(B)	Establishes new program for REACH. Costs $0.2 billion over 7-years.
7074	Additional payments for physicians Services furnished in shortage areas.	313(b)(1)(B)	Increases payments to rural, primary care physicians. Costs $0.4 billion over 7-years.
7075	Payments to physician assistants and nurse practitioners.	313(b)(1)(B)	Pays physician assistants and nurse practitioners 85% for outpatient settings. Costs $0.3 billion over 7.
7076	Demonstration projects for telemedicine	313(b)(1)(A)	Authorization for demonstration project grants for Telemedicine. Produces no change in outlays or revenues.
7077	ProPAC recommendations on urban Medicare dependent hospitals.	313(b)(1)(A)	Directs ProPAC to make recommendations on hospitals that have a high number of Medicare patients and patient days. Produces no change in outlays or revenues.
Chap. 6:	Health Care Fraud and Abuse Prevention		
7112	Establishment of minimum period of exclusion for certain individuals.	313(b)(1)(A)	Codifies current practice. Produces no change in outlays or revenues.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare Produces no change in outlays or revenues.
7121	Data Collection Program	313(b)(1)(B)	Requires HHS to establish a national fraud and abuse data collection program. Provision increases the deficit.
Chap. 7:	Other Provisions for Trust Fund Solvency		
7171	Eligibility Age for Medicare	313(b)(1)(A)	Raises eligibility age of Medicare from 65 to 67. Produces no change in outlays or revenues during 7-year period.
7173	Transfers of B to Part A	313(b)(1)(A)	Transfers premium and deductible savings to Part-A trust fund. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
	TITLE VI		
	COMMITTEE: FINANCE—MEDICAID		
	Compliance: Not in 1, not in 5, in compliance in 7		
Subtitle B, 7191:			
2100(a)	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact. Statement of purpose.
2101	Discription of Strategic Objectives and Performance Goals.	313(b)(1)(A)	Extraneous, no budgetary impact. Lays out requirements for state plans including: (1) general description; (2) objectives and performance goals relating to childhood immunizations, infant mortality and standards of care; (3) factors states might consider in specifying objectives and goals; (4) performance measures.
2102(a)	Annual reports	313(b)(1)(A)	Extraneous, no budgetary impact. States are required to submit reports which include summaries of: expenditures and beneficiaries; utilizations; achievement of performance goals; program evaluations, fraud and abuse and quality control activities; administrative roles, and responsibilities, including organizational charts, costs, interstate compacts, and citations to state statutes; and inpatient hospital payments.
2102(a)	Special Rules	313(b)(1)(A)	Extraneous; no budgetary impact. Defines general categories of beneficiaries for use in State plans and reports.
2103	Periodic, Independent Evaluations	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to have an independent entity evaluate its Medicaid plan every three years.
2104	Description of Process for Medicaid Plan Development.	313(b)(1)(A)	Extraneous; no budgetary impact. Requires state plans to include a description of the process under which the plan is to be developed and implemented.
2105(a)	Consultation in Medicaid Plan Development	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to give public notice of, allow public inspection of, and consider public comments on state plans before submission. Does not apply to revisions. Specifies what is to be included in the notice, how the amendments may be described, where the notice may be published.
2105(b)	Advisory Committee	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to establish and maintain at least 1 advisory committee. Specifies issues on which states must consult with the advisory committee, and the geographic diversity of the advisory committee.
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. THe Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2111(a)	Eligibility and Benefits	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must serve all political subdivisions, provide for making medical assistance available to any pregnant woman or child under the age of 12 whose family income does not exceed 100 percent of poverty and to any individual with a disability.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2111(b)(1)	Elements Relating to Eligibility	313(b)(1)(A)	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 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 the impoverishment of a community spouse.
2111(b)(2–6)	Description of General Elements	313(b)(1)(A)	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 circumstance fee-for-service benefits are furnished; cost-sharing if any; and utilization incentives.
2111(b)(7)	Support for Certain Hospitals	313(b)(1)(A)	Extraneous; no budgetary impact. Sets forth criteria for hospitals that are to be eligible for disproportionate share hospital (DSH) payments.
2111(c)	Immunizations for Children	313(b)(1)(A)	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.
2111(d)	Family Planning Services	313(b)(1)(A)	Extraneous; no budgetary impact. States shall provide prepregnancy planning services and supplies as specified by State.
2111(e)	Preexisting Condition Exclusions	313(b)(1)(A)	Extraneous; no budgetary impact. Prohibits States from denying coverage to eligible individuals on the basis of a preexisting condition. If a State allows a contractor to exclude coverage on the basis of a preexisting condition, the State must provide for such coverage through its Medicaid plan.
2111(f)	Mental Health Services	313(b)(1)(A)	Extraneous; no budgetary impact. A Medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.
2112	Set-asides For Population Groups	313(b)(1)(A)	Extraneous; no budgetary impact. State plans are required to provide 85 percent of amount spent in FY 1995 on low-income families; low-income elderly; and low-income disabled people. Excludes assistance provided to certain aliens. Includes DSH.
2112(d)	Use of Residual Funds	313(b)(1)(A)	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.
2113	Premiums and Cost-sharing	313(b)(1)(A)	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 nominal. States may impose cost-sharing to discourage the inappropriate use of emergency medical services. State may impose premiums and cost-sharing differentially.
2114	Description of Process for Developing Capitation Payment Rates.	313(b)(1)(A)	Extraneous; no budgetary impact. If a state plans to contract with a capitated health care organization, the plan must contain descriptions of the actuarial science that will be used to analyze health care expenditures and other data, the general qualifications required by the state, how data will be disseminated to contractors, and how enrollees will be identified. States must provide public notice about capitation rates unless the information is designated as proprietary and seek public comment. This section contains definitions.
2115	Construction	313(b)(1)(A)	Extraneous; no budgetary impact. Outlines state flexibility in benefits, provider payments, geographical coverage and selection of providers. Says that states do not have any specific responsibility to beneficiaries or providers for particular services or payments or for consistent benefits and payments throughout a state. Provides flexibility for contracting with managed care providers or case management services.
2116	Causes of Action	313(b)(1)(A)	Extraneous; no budgetary impact. States that no applicants, beneficiaries, providers or health care plans has 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 State is found to discriminate. States that nothing in this subsection may be construed as affecting any actions brought under State law.
2117	Treatment of Income and Resources	313(b)(1)(A)	Extraneous; no budgetary impact. Spousal impoverishment. Includes definitions.
2121	Allotment of Funds Among States	313(b)(1)(B)	Extraneous; 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 or carry over 1996 funds. It sets out procedures for notifying state of their allotments and calls for a GAO review of the allotments. This section also contains definitions.
2122	Payments to States	313(b)(1)(A)	Sets forth payments to States for medical assistance, medically related services, and administrative expenses, in relation to the state's Federal medical assistance percentage (FMAP), which are defined. Makes provisions for overpayments. Contains restraints on provider-related donations and health care-related taxes; includes a waiver for broad-based health care taxes not related to payments. Contains definitions. Includes treatment of the Territories and Indian Health programs.
2122(g)	Authority to Use Portion of Payment for Other Purposes.	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows state to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123	Limitation on Use of Funds; Disallowance	313(b)(1)(A)	Extraneous; no budgetary impact. No payments are to be used for providers excluded from participation under other programs including MCH block grant, Medicare and Title XX. Defines treatment of third party liability. Medicaid is the secondary payer to any other Federal operated or financed health care program. No payments shall be made to a state for medical assistance furnished to an alien who is not lawfully admitted for permanent residence, except for emergency services, if the alien otherwise meets the eligibility requirements for Medicaid and are not related to organ transplants.
2123(g)	Limitation on Payment for Abortions	313(b)(1)(A)	Extraneous; no budgetary impact. No funds are to be made to a State for any amount expended to pay for any abortion or to assist in the purchase in whole or in part of health benefit coverage that includes coverage or abortion. Does not apply in the case of rape or incest or if the woman's life is in danger.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2123(i)	Unauthorized Use of Funds	313(b)(1)(A)	Extraneous; no budgetary impact. No payments shall be used to purchase or improve land or construct or remodel buildings, to pay room and board except when provided as part of a temporary, respite care, to provide educational services without regard to income, or to provide vocational rehabilitation or other employment and training services available through other programs.
2124	Grant Program for Community Health Centers and Rural Health Clinics.	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to set aside 1 percent of the pool amount to be used for grants for primary and preventive health care services at rural health clinics and Federal qualified health centers.
2131	Use of Audits to Achieve Fiscal Integrity	313(b)(1)(A)	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.
2132	Fraud Prevention Program	313(b)(1)(A)	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 medical licensing board.
2133	Information Concerning Sanctions Taken by State Licensing Authorities against Health Care Practitioners and Providers.	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have reporting systems about proceedings against providers.
2134	Medicaid Fraud Control Units	313(b)(1)(A)	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.
2135	Recoveries from Third Parties and Providers	313(b)(1)(A)	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 protections to beneficiaries. Provides penalties in the form of reductions of payments to a person who violates this section.
2135(f)	Required Laws Relating to Medical Child Support	313(b)(1)(A)	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 on the ground that the child was born out-of-wedlock, is not claimed on the parent's income tax return, or does not reside with the parent or in the insurer's service area. Contains further provisions to assure access to health insurance for kids with divorced parents.
2135(g)	Estate Recoveries and Liens permitted	313(b)(1)(A)	Extraneous; no budgetary impact. States may take appropriate action to recover from an individual or estate any amounts paid as medical assistance to or on behalf of the individual under the plan including through the imposition of liens against property or the estate. A state may not impost a lien on the principal residence of moderate value or the family farm owned by the individual as a condition of the spouse of that individual receiving long term care.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2136	Assignments of Rights of Payment	313(b)(1)(A)	Extraneous; no budgetary impact. States may require as a condition of eligibility that individuals: assign to the State any rights to payment for medical care from any third party; cooperate in establishing paternity if the person is a child born out of wedlock and in obtaining support payments for himself and such a child unless the individual is a pregnant woman or is found to have good cause for refusing.
2137	Quality Assurance Standards for Nursing Facilities	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to establish nursing home standards. Provides procedures for when a State determines that a nursing home previously certified for participation no longer meets the requirements.
2138	Other Provisions Promoting Prgm Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to make public findings of any survey of any health care facility or organization. Record keeping of services provided to individuals required.
2151	Submittal and Approval of Medicaid Plans	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to submit plans that meet the requirements of this title as a condition of receiving funding.
2152	Submittal and Approval of Plan Amendments	313(b)(1)(A)	Extraneous; no budgetary impact. States may amend their plan at any time. States must provide public notice of any amendments that eliminate or restrict eligibility or benefits.
2153	Sanctions for Substantial Noncompliance	313(b)(1)(A)	Extraneous; no budgetary impact. Secretary is required to review plans and amendments promptly. The Secretary must notify a State within 30 days if its plan substantially violates a requirement of this title and will issue an order that the plan is not to become effective. If upon finding the administration of the plan to be in violation, after notice and opportunity for a hearing, the Secretary shall order remedy. Provides for State response, corrective action, review, failure to respond, judicial hearing.
2154	Secretarial Authority	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary and the State can negotiate a satisfactory resolution to any dispute concerning the approval of a Medicaid plan.
2171	Definitions	313(b)(1)(A)	Extraneous; no budgetary impact.
2172	Treatment of Territories	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary may waive certain requirements for the Territories.
2173	Descriptions of Treatment of Indian Health Programs.	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must include provisions made for any Indian health programs operated under the plan.
7192	Medicaid Drug Rebate Program	313(b)(1)(A)	Extraneous; no budgetary impact. No payment shall be made to a state for covered outpatient drugs unless the manufacturer has entered into a Medicaid rebate agreement with the Secretary. States are not required to participate in the Medicaid rebate agreement.
7193	Waivers	313(b)(1)(A)	Extraneous: no budgetary impact. Allows States with Section 1115 waivers to opt to continue to operate such a waiver, and to continue to receive funding under the waiver, as long as it does not exceed funding granted under this Title. If states opt to terminate a waiver, they are held harmless for accrued cost neutrality liabilities.
7194	Children with Special Health Care Needs	313(b)(1)(A)	Extraneous; no budgetary impact. Authorization of appropriations. The Secretary is required to develop a national classification system to identify children with special health care needs. The Secretary is allowed to make grants to not more than 5 States to conduct 5-year demonstration projects to test the reliability of the classification system, develop methods of assuring quality care for children with special needs, provide for methods to identify these children. These projects will develop adequate capitation rates for these children.
7195	CBO Reports	313(b)(1)(A)	Extraneous; no budgetary impact. CBO is to prepare an annual analysis of the effects of these amendments on the health insurance status of children, retirees, and the disabled and to report by May 15.
	Title VII		
	COMMITTEE FINANCE—WELFARE AND OTHER		
	Compliance: Not in 1, not in 5, in compliance in 7		
	Block Grants for Temporary Assistance for Needy Families		
Subtitle C. Under 7201:			
401	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact.
402	Eligible States; State Plan	313(b)(1)(A)	Extraneous; no budgetary impact. Requires States to have a written plan and to make the plan available to the pacific.
403	Payments to States and Indian Tribes	313(b)(1)(B)	Extraneous; costs. This section establishes the block grant.
403(a)(2)(C)	Notification	313(b)(1)(A)	Extraneous; no budgetary impact. Requires Secretary to notify the State 3 months in advance about the amount a State's grant will be reduced to pay for the program for Indians in that State.
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State.	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
403(b)(3)	Authority to Reserve Certain Amounts for Assistance	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to reserve for assistance or child care.
403(b)(4)	Authority to Operate Employment Placement Program.	313(b)(1)(A)	Extraneous: no budgetary impact. Allows States to make payments or provide vouchers to State-approved public and private job placement agencies that provide employment placement services to people who receive assistance.
403(c)	Timing of Payments	313(b)(1)(A)	Extraneous: no budgetary impact. Allows for quarterly installments.
403(d)	Federal Loan Fund for State Welfare Programs	313(b)(1)(A)	Extraneous: CBO states in a footnote that under the rules of credit reform this does not score. Establishes a $1.7 billion "rainy day" revolving fund. States must pay back loans with interest.
403(e)	Indian Tribes that Receive JOBS Funds	313(b)(1)(B)	Extraneous; costs. Grant for Indian tribes to maker work activities available.
403(f)	Job Placement Performance Bonus	313(b)(1)(B)	Extraneous; cost. Establishes a bonus fund to reward States for high job placement rates. Paid for out of totals.
403(h)	Contingency Fund	313(b)(1)(B)	Extraneous: costs. Provides $1 billion for matching grants to States with high unemployment. Requires 100 percent maintenance of effort.
404(c)(3)(F) Provision in parens lines 8–10.	Vocational Educational Training	313(b)(1)(A)	Extraneous: does not score. Limits States from counting more than 1 year of vocational education as a work activity.
404(c)(4)	Limitation on Vocational Education	313(b)(1)(A)	Not more than 25 percent of adults engaged in work are allowed to meet the work requirement through vocational educational training.
404(d)	Penalties Against Individuals	313(b)(1)(A)	States are required to reduce the amount of assistance payable to a family if an adult refuses to engage in work activities.
404(f)	Sense of the Congress	313(b)(1)(A)	Extraneous: does not score. States are encouraged to assign priority to requiring adults in 2-parent families and adults in single parent families that include older preschool or school-age children to be engaged in work activities.
404(g)	Encouragement to Provide Child Care Services	313(b)(1)(A)	Extraneous: does not score. States may treat individuals providing day care to other participating individuals as meeting the work requirements.
405	Requirements and Limitations	313(b)(1)(A)	Extraneous: does not score. Requires States to enter into personal responsibility contract with families receiving assistance.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous: does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
405(d)	Denial of Assistance for Fugitive Felons and Probation and Parole Violators.	313(b)(1)(A)	Extraneous; does not score. Fugitive felons, those on probation and in violation of parole are not eligible for assistance. Allows for exchange of information with law enforcement officials for purposes of enforcing this section.
405(e)	State Option to Require Assignment of Support	313(b)(1)(A)	Extraneous: does not score. States may require that individuals assign to the State any rights to support from any other person.
405(f)	Denial of Assistance	313(b)(1)(A)	Extraneous: does not score. States may not provide assistance to a family with respect to any minor who is absent for 45 days, or, at State option, not less than 30 and not more than 90 consecutive days. Allows for good cause exceptions.
406(a)	Promoting Responsible Parenting	313(b)(1)(A)	Extraneous; does not score. Series of findings.
406(b)	State Option to Deny Assistance for Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(d)(1)	Requirement That Teenage Parents Live in Adult-Supervised Settings.	313(b)(1)(A)	Extraneous: does not score. If a State provides assistance to an unmarried teenage mother, that individual must reside with a parent, guardian, or other adult relative.
406(d)(2)	Exception	313(b)(1)(A)	Extraneous: does not score. Exception is provided if the individual lives in an adult-supervised living arrangement (such as a second chance home.) States can help locate such an arrangement.
406(d)(3)	Assistance to States in Providing or Locating Adult-Supervised Supportive Living Arrangement for.	313(b)(1)(B)	Extraneous: costs. Provides $25 million in grants to States for supportive living arrangements such as second chance homes.
406(e)	Requirement that Teenage Parents Attend High School or Equivalent Training Program.	313(b)(1)(A)	Extraneous; does not score. State shall not provide assistance or, at State option, shall reduce assistance for someone who has not completed high school and is not in school or an approved alternative educational or training program.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
406(g)	State Option to Deny Assistance in Certain Situations.	313(b)(1)(A)	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.
408	Audits	313(b)(1)(A)	Extraneous; no cost impact. Requires annual audits by an approved entity which must be submitted to the Secretaries of Treasury and HHS.
409	Data Collection and Reporting	313(b)(1)(A)	Extraneous; no cost impact. Secretary is required to develop a quality assurance system of data collection and reporting. Data described.
410	Research, Evaluations, and National Studies	313(b)(1)(B)	Extraneous; overall costs. Requires research on benefits, effects and costs of operating different State programs, including time limits. Secretary may assist States in developing and evaluating innovative approaches.
410(d)	Annual Ranking of States and Review of Most and Least Successful Work programs.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states in order of their success in placing recipients into long-term private sector jobs, reducing welfare caseload, and diverting individuals from formally applying.
410(e)	Annual Ranking of States and Review of Issues Relating to.	313(b)(1)(A)	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 out-of-wedlock ratio.
411	Study by the Census Bureau	313(b)(1)(A)	Extraneous. Requires Census to expand the Survey of Income and Program Participation to allow evaluation on a random national sample of recipients. "Secretary shall appropriate from funds not otherwise appropriated."
412	Waivers	313(b)(1)(B)	The section as a whole scores because of 412(b)(3). but as a cost. Allows States to continue to operate under current waivers.
412(b)(3)	Hold Harmless	313(b)(1)(B)	Extraneous; costs. States who request to terminate a waiver will be held harmless for accrued cost neutrality liabilities.
413	State and County Demonstration	313(b)(1)(B)	Extraneous: costs. Allows for demonstrations of innovative and effective program designs.
414	Direct Funding and Administration by Indian Tribes	313(b)(1)(B)	Extraneous: costs. Provides funding to Indian tribes for administration of grants. Requires tribes to submit plans with minimum work requirements. Provides for emergency assistance, accountability, penalties, and data collection.
415	Assistant Secretary for Family Support	313(b)(1)(A)	Extraneous; no cost impact. Program is to be administered by such a Secretary.
416	Limitation on Federal Authority	313(b)(1)(A)	Extraneous; no cost impact. HHS and Treasury may not regulate the conduct of the States except to the extent expressly provided in this part.
417	Appeal of Adverse Decision	313(b)(1)(A)	Extraneous; no cost impact. Lays out procedures for appealing an adverse decision of the Secretary.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
419	Amounts for Child Care	313(b)(1)(B)	Extraneous; costs. Provides current funding plus $3 billion over 5 years for grants to states for child care. Provides for distribution of funds and administration of programs.
420	Eligibility for Child Care Assistance	313(b)(1)(A)	Extraneous; no cost impact. Allows states to determine who is eligible for child care assistance.
7202	Services Provided by Charitable	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7206	Development of Prototype of Counterfeit-resistant Soc. Sec. Card.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of appropriations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
7208	Modifications to the Job Opportunities for Certain Low-Income Individuals program.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7209	Demonstration Projects for School Utilization	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7211	Parental Responsibility Contracts	313(b)(1)(A)	
7212	Expenditure of Fed Funds in Accordance with Laws and Procedures Applicable to Expenditure of State Funds.	313(b)(1)(A)	
Subtitle D, SSI:			
7251(e)	Supplemental Funding for Alcohol and Substance Abuse Treatment Programs.	313(b)(1)(B)	Extraneous; costs. $100 million for treatment.
7271	Annual Report on SSI	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to prepare an annual report describing the program, providing historical data, and making projections for the future.
7273	Study of Disability Determination	313(b)(1)(A)	Extraneous: no cost impact.
Chapter 4, 7282–7	Nat'l Commission on Future of Disability	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 5	State Supplementation Programs	313(b)(1)(D)	Extraneous; merely incidental. Repeals Maintenance of Effort requirements applicable to Optional State programs for supplementation of SSI. CBO is unable to estimate savings. but says they will be small. Most savings will accrue to the states.
Chapter 6, 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle E, Child Support:			
Sec. 7301	State Obligation to Provide Child Support Enforcement Services.	313(b)(1)(B)	Extraneous; costs.
Sec. 7302	Distribution of Child Support Collections	313(b)(1)(B)	Extraneous; costs.
Sec. 7303	Rights to Notification/Hearings	313(b)(1)(A)	Extraneous; no cost impact. Establishes procedures to assure parties receive notifications and have access to hearings.
Sec. 7304	Privacy Safeguards	313(b)(1)(A)	Extraneous; no cost impact. Establishes a State plan requirement to protect against unauthorized use of information.
7341(a)(2)(b)	Performance-Based Incentives and penalties	313(b)(1)(A)	Extraneous; no budgetary impact. Orders the Secretary to develop a formula for the distribution of incentive payments.
7344	Automated Data Processing Requirements (D&M)	313(b)(1)(B)	Extraneous; costs. Requires States to have a single system in accordance with this section's provisions.
7344	Automated Data Processing Development	313(b)(1)(B)	Extraneous; costs. Creates a federal matching rate for development costs of automated systems.
7345(a)(j)	Technical Assistance. For training federal and state staff, R&D programs, and special projects.	313(b)(1)(B)	Extraneous; costs. This section appropriates 1% of the amount paid to the U.S. in the previous fiscal year pursuant to 475(a).
7351	National Child Support Guidelines Commission	313(b)(1)(A)	Extraneous; no budgetary impact. This section creates a Commission to establish guidelines for a national child support policy.
7352	Simplified Process for Review of Child Support Orders.	313(b)(1)(B)	Extraneous; costs. This section lists procedures the State may employ to review and adjust each support order.
Ch. 7. Sec. 7369	State Law Authorizing Suspension Licenses	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec.	Denial of Passports for Nonpayment of Child Support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7371	International Child Support Enforcement	313(b)(1)(A)	Extraneous; no budgetary impact. Gives Secretary of State authority to negotiate agreements in foreign nations to enforce child support laws.
Ch. 7. Sec. 7375(b)	Sense of the Senate. Regarding how states can collect enforcement costs.	313(b)(1)(A)	Extraneous: no budgetary impact.
Ch. 7. Sec. 7377	Sense of the Senate. Regarding noncustodial parent's inability to pay child support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 8. Sec. 7379	Enforcement of Orders for Health Care Coverage	313(b)(1)(B)	Costs. This provision obligates states to provide services.
Ch. 9. Sec. 7381	Grants to States for Visitation	313(b)(1)(B)	Extraneous; costs. This provision requires the Administration for Children and Families to make grants to States so that parents can visit their children.
Subtitle F, Noncitizens: 7406	Information Reporting	313(b)(1)(A)	Extraneous; no cost impact. Requires states to make quarterly reports with the names and addresses of individuals known to be unlawfully in the US.
Subtitle G, Add'l Provisions Relating to Welfare			
Chapter 1—Reductions in Federal Positions:			
7411–3	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous: no direct spending impact. Reduction is on the discretionary side of the budget.
7422	Establishing Nat'l Goals to Prevent Teenage Pregnancies.	313(b)(1)(A)	Extraneous; no spending impact. Requires the Secretary to establish and implement a strategy for preventing out-of-wedlock teenage pregnancies. Requires a report to Congress.
Chapter 4:			
7441	Exemption of Battered Individuals from Certain Requirements.	313(b)(1)(B)	Extraneous; costs. Exempts from the provisions of this Subtitles D–F any individual who has been battered or subjected to extreme cruelty, if the application of the provision would endanger the individual.
7442	Sense of the Senate on Legislative Accountability for unfunded Mandates.	313(b)(1)(A)	Extraneous: no cost impact. Sense of the Senate that prior to acting on the conference report on welfare, CBO shall prepare an analysis to include estimates of costs to States of meeting the work requirements, the resources available to the States to meet the requirements, and the amount of additional revenues needed to meet the work requirements.
7443	Sense of the Senate Regarding Enforcement of Statutory Rape Laws.	313(b)(1)(A)	Extraneous; no cost impact. SoS that State and local jurisdictions should aggressively enforce statutory rape laws.
7444	Sanctioning for Testing Positive for Controlled Substances.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to sanction people who test positive for illegal substances.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J. COLAs: 7481	SoS Regarding Corrections of Cost of Living Adjustments.	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X	
		COMMITTEE: LABOR AND HUMAN RESOURCES	
		Compliance: Yes	
§ 10002(c)(1) "(a)(2)(C)"	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1) "(a)(1)(A)", therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10002(g) p. 15, lines 14–16	Participation of Institutions and Administration of Loan Programs. School Origination Payment, "Sense of Senate" provision.	313(b)(1)(A)	A Sense of the Senate statement, that a fee shall not be charged to students in the form of increase tuition, can not be considered a term or condition.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]
§ 10005(a)	Amendments Affecting Guarantee Agencies, Use of Reserve Funds to Purchase Defaulted Loans.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(e)	Amendments Affecting Guarantee Agencies, Reserve Fund Reforms.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
Title XI	Veterans' Affairs	310(c)	Out of compliance in 1st year (1996).
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12114	Changes to Merchant Marine Act	313(b)(1)(C)	Jurisdiction.
12213	Allows states to establish standards for long term care policies.	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12421	Extends expedited refund of excise tax paid regarding ethanol.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12501 to 12510	Taxpayer Bill of Rights 2	313(b0(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as losing $20 million over seven years.
12702	Allows tax exempt organizations to accept "qualified sponsorship payments" without being subject to the unrelated business income tax.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12703	Exempts agriculture and horticulture organizations from unrelated business income tax on associate dues of less than $100.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12705	Provides exceptions to the notification 313(b)(1)(A) requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12706	Allows football coaches retirement plan to be considered a multi-employer plan under ERISA.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12822	Provides that the rollover of gain on the sale of a home cannot be elected by a nonresident alien.	313(b)(1)(0)	Merely incidental budgetary impact. Join Tax Committee scores as losing less than $500,000 over seven years.
12874	Requires the trustees of the Combined Fund to provide documents to contributors.	313(b)(1)(A)	No budgetary impact.
12875	Clarifies that newspaper carriers are independent contractors.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12876	Allows bank common trust funds to transfer assets to regulated investment trusts.	313(b)(1)(A)	No budgetary impact.
12901	Repeal of family aggregation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being "considered in other provisions."
12903	Changes the minimum participation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12931	Clarifies when individuals are "leased" employees."	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12932	Eliminates special aggregation rules for pension plans maintained by unincorporated employers.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12935	Allows government pensions to pay higher benefits	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12937	Creates a special rule for contributions on behalf of disabled employees.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12938	Allows rural cooperative plans to make distributions to participants after the attainment of age 59½.	313(b)(1)(b)	No budgetary impact. Joint Tax Committee scores as "negligible."
12940	Provides that for purposes of the general nondiscrimination rules that the Social Security retirement age is a uniform retirement age.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being "considered in other provisions."
12941	Clarifies that 403b plans for tribal governments are not disqualified because the contract was purchased on behalf of employees who are not employees of educational organizations.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12951 to 12968	Creates special rules for church retirement plans	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 2 minutes each.

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

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. THOMAS. Mr. President, I am honored to serve as a member of the Advisory Commission on Intergovernmental Relations [ACIR]. In this era of "new federalism," the government must create a partnership with state and local governments that is based on balanced, decentralized decision making. These governments have been the laboratories for change for the last 20 years. A streamlined and more flexible intergovernmental system will offer significant opportunities for state and local governments to develop more innovative and cost effective methods of delivering programs and services. State and local governments are now ready to rise to the challenges of this new era in history—the Information Age—where experimentation and local control are needed.

For example, as this Congress moves to balance the budget and restore fiscal responsibility and accountability at the federal level, it cannot do so on the backs of state and local governments. My involvement in drafting Public Law 104-4, the Unfunded Mandates Reform Law, was an effort to relieve this burden. As a former Wyoming state legislator, I am well aware of the hardships the federal government places on states and localities.

I look forward to working with the other members of the ACIR in implementing the unfunded mandates reform law and sharing with my Senate colleagues the effects of federal policy making on state and local governments. Together, we can usher in a new era of government and restore federalism as the founding fathers intended over 200 years ago.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

KENNEDY (AND OTHERS) AMENDMENT NO. 2959

Mr. KENNEDY (for himself, Mr. SIMON, Mr. PELL, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. KOHL, Mr. BAUCUS, Mr. BINGAMAN, 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 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 16.

Strike chapter 3 of subtitle B of title XII.

HUTCHISON (AND OTHERS) AMENDMENT NO. 2960

(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 were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The 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 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 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 Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to corporate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicated persons found in their territories.

(8) ethnic cleansing by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

BAUCUS AMENDMENT NO. 2961

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

Strike section 1105(4)(B)(iii).

KASSEBAUM (AND OTHERS) AMENDMENT NO. 2962

Mrs. KASSEBAUM (for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. PRESSLER, Mr. ROTH, Mr. DOMENICI, Mr. STEVENS, Mr. SPECTER, Mr. COHEN, Mr. CHAFEE, and Mr. BAUCUS) 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 1426, 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 1469, beginning on line 2, 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:

"SEC. 35. CHILD TAX CREDIT.

"(a) 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 $500 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 tax other than the credit allowable under section 32), and

"(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

"(b) 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 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) 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, and

"(C) such individual bears a relationship to the taxpayer described in section 32(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 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section."

(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Child tax credit.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

MCCAIN (AND OTHERS) AMENDMENT NO. 2964

Mr. MCCAIN (for himself, Mr. DOLE, Mr. COATS, and Mr. NICKLES) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that—

(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;

(d) 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 7 years.

HELMS AMENDMENT NO. 2965

Mr. HELMS proposed an amendment to the bill S. 1357, supra; as follows:

On page 461, line 13, after the period, insert the following:

"(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice 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 sponsors, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the individual."

CAMPBELL (AND BROWN) AMENDMENTS NOS. 2966-2967

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself and Mr. BROWN) submitted two amendments intended to be proposed by them to the bill S. 1357, supra; as follows:

AMENDMENT NO. 2966

Beginning on page 178, strike out line 3 and all that follows through the end of the matter between lines 7 and 8 on page 178, and insert in lieu thereof the following:

"§7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

"(a) STUDY OF FUTURE OF PETROLEUM RESERVES.—(1) The Secretary of Energy shall conduct a study to determine which of the following options, or combination of options, would maximize the value of the naval petroleum reserves to or for the United States:

"(A) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C.1701 et seq.).

"(B) Sale of the interest of the United States in the naval petroleum reserves.

"(2) The Secretary shall retain such independent consultants as the Secretary considers appropriate to conduct the study.

"(3) An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves under paragraph (1) 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.

"(4) Not later than June 1, 1996, 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 combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

"(b) IMPLEMENTATION OF RECOMMENDATIONS.—(1) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4), and not later than September 30, 1997, the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) shall be leased as described in subparagraph (A) of subsection (a)(1) or sold as described in subparagraph (B) of such subsection.

"(2) 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) ADMINISTRATION OF A SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to any sale of the naval petroleum reserves under subsection (b) as if the reference to Naval Petroleum Reserve Numbered 1 in those subsections of such section 7421a referred to the naval petroleum reserves.

"(2)(A) The time requirements set forth in subsection (c) of section 7421a of this title do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

"(B) In the application of subsection (d) of section 7421a of this title under paragraph (1), the reference in that subsection to subsection (e) of such section does not apply.

"(C) In the application of subsections (j) and (k) of section 7421a of this to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

"(i) that does not have a preamble;

"(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed 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

"(iii) 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 (1), the period referred in that subsection shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

"(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

"7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).

"7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).".

AMENDMENT NO. 2968

Beginning on page 178, strike out line 3 and all that follows through the end of the matter between lines 7 and 8 on page 178, and insert in lieu thereof the following:

"§7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

"(a) STUDY OF FUTURE OF PETROLEUM RESERVES.—(1) The Secretary of Energy shall conduct a study to determine which of the following options, or combination of options, would maximize the value of the naval petroleum reserves to or for the United States:

"(A) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

"(B) Sale of the interest of the United States in the naval petroleum reserves.

"(2) The Secretary shall retain such independent consultants as the Secretary considers appropriate to conduct the study.

"(3) An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves under paragraph (1) 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.

"(4) Not later than June 1, 1996, 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 combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

"(b) IMPLEMENTATION OF RECOMMENDATIONS.—(1) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4), and not later than September 30, 1997, the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) shall be leased as described in subparagraph (A) of subsection (a)(1) or sold as described in subparagraph (B) of such subsection.

"(2) 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) ADMINISTRATION OF A SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to any sale of the naval petroleum reserves under subsection (b) as if the reference to Naval Petroleum Reserve Numbered 1 in those subsections of such section 7421a referred to the naval petroleum reserves.

"(2)(A) The time requirements set forth in subsection (c) of section 7421a of this title do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

"(B) In the application of subsection (d) of section 7421a of this title under paragraph (1), the reference in that subsection to subsection (e) of such section does not apply.

"(C) In the application of subsections (j) and (k) of section 7421a of this to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

"(i) that does not have a preamble;

"(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed 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

"(iii) 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 (1), the period referred in that subsection shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

"(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

"7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).
"7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).".

McCAIN AMENDMENT NO. 2968

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

On page 696, between lines 8 and 9, insert the following:

SEC. 7116A. MEDICARE WHISTLEBLOWER INCENTIVE.

(a) PURPOSE.—The purpose of this section is to—

(1) reduce and eliminate fraud and abuse under the medicare program;

(2) reduce negligent and fraudulent medicare billings by providers;

(3) provide medicare beneficiaries with incentives to report inappropriate billing practices; and

(4) provide savings to the medicare trust funds by increasing the recovery of medicare overpayments.

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A (42 U.S.C. 1320a-7a), as amended by section 7131(a)(4), is further amended by adding at the end the following new subsection:

"(n) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).

"(6) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If the fiscal intermediary or carrier recovers amounts in accordance with paragraph (5), the Secretary shall make an incentive payment (in an amount determined under subparagraph (B)) to the beneficiary who submitted the request for the itemized bill under paragraph (1) that resulted in such recovery. No incentive payment shall be made under this subparagraph unless such recovery is made after a final determination on whether such recovered amounts are required to be repaid by the provider.

"(B) INCENTIVE PAYMENT DETERMINED.—

"(i) IN GENERAL.—The amount of the incentive payment determined under this subparagraph is equal to the lesser of—

"(I) 1 percent of the amount that the bill overcharged for medical or other items or services; or

"(II) $10,000.

"(ii) LIMITATION OF AMOUNT.—The amount determined under this subparagraph may not exceed the total amounts recovered with respect to the bill in accordance with paragraph (5).

"(7) PREVENTION OF ABUSE BY BENEFICIARIES.—The Secretary shall—

"(A) address abuses of the incentive system established under this subsection; and

"(B) establish appropriate procedures to prevent such abuses.

"(8) REQUIREMENT THAT BENEFICIARY DISCOVER INACCURATE BILL TO RECEIVE INCENTIVE PAYMENT.—No incentive payment shall be made under paragraph (6) to a beneficiary if the Secretary or the appropriate fiscal intermediary or carrier identified the bill that was the subject of the beneficiary's request for review under this subsection as being overpaid prior to such request.".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1996.

• Mr. MCCAIN. Mr. President, earlier this session, I introduced S. 1325, the Medicare Whistleblower Act of 1995, to reduce provider fraud and abuse in the Medicare Program. The amendment I am submitting today improves upon that bill, and provides a strong incentive for beneficiaries to identify overpayments made by Medicare. An Abraham amendment which passed today, and which I supported, takes a similar approach to achieve this 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 include services that they have not received, double billings 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 fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year, which is 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, we all overpay, and costs to beneficiaries and other taxpayers spiral.

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 entire problem, and there is other 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 fraudulent activities. To discover most fraud, we must obtain the full 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 when their request 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 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 awarded only to 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 it—for its 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 whistleblower program to the Secretary of HHS. I strongly 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 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.●

BROWN (AND OTHERS) AMENDMENT NO. 2969

Mr. BROWN (for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG) 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:

SEC. . $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYEES OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking "publicly held corporation" in paragraph (1) and inserting "taxpayer (other than personal service corporations)",

(2) by striking "covered employee" each place it appears in paragraphs (1) and (4) and inserting "employee", and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

HARKIN (AND OTHERS) AMENDMENT NO. 2970

Mr. HARKIN (for himself, Mr. GRAHAM, and Mr. BIDEN) proposed an amendment to the bill S. 1357, supra; as follows:

Strike Chapter 6 of Title VII except for the text of amendment number 2950 as passed by the Senate and insert in lieu thereof, the following:

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud and Abuse Prevention Act of 1995".

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program"; and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b)—

(i) by striking "and willfully" each place it appears;

(ii) by striking "$25,000" each place it appears and inserting "$50,000";

(iii) by striking "title XVIII or a State health care program" each place it appears and inserting "Federal health care program";

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and inserting "kind with intent to be influenced—";

(v) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(vi) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend";

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person";

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.";

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking "Paragraphs (1) and (2)" and inserting "Paragraphs (1), (2), and (3)"; and

(xi) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

"(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

"(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsections:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).

"(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

Medicare/Medicaid Beneficiary Protection Program.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

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—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7111. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 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 of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 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 by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7114. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a-7(b)(6)(A)) is amended—

(1) by inserting "(as specified by the Secretary in regulations)" after "substantially in excess of such individual's or entity's usual charges"; and

(2) striking "(or, in applicable cases, substantially in excess of such individual's or entity's costs)" and inserting ", costs or fees".

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under sec-***

SEC. 7114. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

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 (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

SEC. 7116. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7117. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7120. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r-2(d)) is amended by inserting "and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 7121. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board."; and

(2) by amending subsection (b)(4) to read as follows:

"(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.".

SEC. 7122. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

CORPORATE WHISTLEBLOWER PROGRAM

"SEC. 1128C (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

"(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

"(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

"(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.".

PART IV—CIVIL MONETARY PENALTIES

SEC. 7121. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(b)(f))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Balanced Budget Reconciliation of 1995 (as estimated by the Secretary) shall be deposited into the Hospital Insurance Trust Fund.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))";

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)"; and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking "; or" at the end of subparagraph (D) and inserting ", or"; and

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

"(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);".

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting ", directed, or prescribed" after "furnished".

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7131. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 7132. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment 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. 7133. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

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

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 7134. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 7135. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1035. False statements relating to health care matters.".

SEC. 7136. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTICATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.".

SEC. 7137. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 7138. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7139. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMINC AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7141. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTICATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROCRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTICATE AND PROSECUTE PATIENT ABUSE IN

Non-Medicaid Board and Care Facilities.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7151. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7152. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7153. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7154. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7155. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7161. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7162. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be within, or be centered around metropolitan statistical areas;

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

"(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas..

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Durable medical equipment and medical supplies.

"(2) Oxygen and oxygen equipment.

"(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items

and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction. Notwithstanding this section, in no case can the Secretary make a payment for items and services described in Section 1847(c) that are greater than that required by other provisions of the Balanced Budget Reconciliation Act of 1995.

SEC. 7163. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 7164. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

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

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 7165. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7171. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as "ADPE") meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7172. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7173. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7171(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7174. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7171.

SEC. 7175. DEFINITIONS.

For purposes of this chapter—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j-1395w-4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7141. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part (except Section 1861(v)(1)(V)) with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

"(A) the actual charges for the services; or

"(B) the amount determined by a fee schedule developed by the Secretary.

"(2) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

"(3) SEPARATE PAYMENT LEVELS.—

"(A) IN GENERAL.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

"(B) NONROUTINE BASIS.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

"(5) SPECIAL RULE FOR END STAGE RENAL DISEASE BENEFICIARIES.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

"(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

"(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

"(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 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 make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

MCCAIN (AND OTHERS) AMENDMENT NO. 2971

Mr. MCCAIN (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 Agriculture is authorized to take such actions are necessary to facilitate the transition to the private sector of activities carried out under the market promotion program established under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) (as in effect prior to the amendment made by subsection (a)).

(c) CONFORMING AMENDMENTS.—

(1) Section 211 of the Act (7 U.S.C. 5641) is amended by striking subsection (c).

(2) Section 402(a)(1) of the Act (7 U.S.C. 5662(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. 5623 note) is repealed.

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.

(2) Except as provided in subsection (c), the Secretary of Energy may not obligate or expend funds for the program referred to in paragraph (1) except to pay the costs associated with the termination of that program.

(b) ASSUMPTION OF PROGRAM OPERATIONS.—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 a contract for the sale of timber 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—

(1) 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

(2) 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.

(c) REQUIREMENT.—The Secretary of Agriculture and the Secretary of the Interior shall require the contractor described in subsection (a) to pay the full cost of timber construction access roads referred to in subsection (a) if the road is not authorized for purposes other than timber within the applicable forest management plan.

SEC. 1301C. TERMINATION OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

(a) TERMINATION OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.—The United States Travel and Tourism Administration of the Department of Commerce is terminated.

(b) CONFORMING AMENDMENTS.—

(1) SMALL BUSINESS ACT.—Section 21(c)(3)(O) of the Small Business Act (15 U.S.C. 648(c)(3)(O)) is amended by striking "in conjunction with the United States Travel and Tourism Administration.".

(2) DEPARTMENT OF COMMERCE APPROPRIATIONS ACT, 1988.—The first sentence of section 108 of the Department of Commerce Appropriations Act, 1988 (15 U.S.C. 1531) is amended by striking ", the Export Administration, and the United States Travel and Tourism Administration." and inserting "and the Export Administration.".

(3) ACT OF FEBRUARY 14, 1903.—Section 12 of the Act of February 14, 1903 (32 Stat. 826, chapter 552; 15 U.S.C. 1511) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively.

(4) INTERNATIONAL TRAVEL ACT OF 1961.—

(A) PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.—Section 206 of the International Travel Act of 1961 (22 U.S.C. 2123d) is repealed.

(B) UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.—Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is repealed.

(C) TOURISM POLICY COUNCIL.—Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B);

(iii) by striking subparagraph (D); and

(iv) by redesignating subparagraphs (E) through (P) as subparagraphs (C) through (N), respectively.

(5) RURAL TOURISM DEVELOPMENT FOUNDATION.—Section 4 of the Tourism Policy and Export Promotion Act of 1992 (22 U.S.C. 2124c) is amended by striking "the Under Secretary of Commerce for Travel and Tourism" each place it appears and inserting "the Secretary of Commerce".

(6) UNITED STATES TRAVEL AND TOURISM ADMINISTRATION FACILITATION FEE.—

(A) REPEAL.—Section 306 of the International Travel Act of 1961 (22 U.S.C. 2128) is repealed.

(B) UNEXPENDED FUNDS.—Any fees that are deposited in the general fund of the Treasury pursuant to section 306(d) of the International Travel Act of 1961 (22 U.S.C. 2128(d)) before the effective date specified in subsection (d)(1) shall remain available to the Secretary of Commerce until expended.

(C) PENALTIES.—Section 307 of the International Travel Act of 1961 (22 U.S.C. 2129) is repealed.

(7) TITLE 5.—

(A) UNDER SECRETARY OF COMMERCE FOR TRAVEL AND TOURISM.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Commerce for Travel and Tourism" in the item relating to Under Secretaries of Commerce.

(B) DIRECTOR, UNITED STATES TRAVEL SERVICE.—Section 5316 of title 5, United States Code, is amended by striking the following item:

"Director, United States Travel Service, Department of Commerce.".

(c) TERMINATION OF AFFAIRS; FURTHER MEASURES.—The Secretary of Commerce shall provide for—

(1) the termination of the United States Trade and Travel Administration by the date specified in subsection (d)(1); and

(2) such further measures and disposition as may be necessary to carry out this section, including the disposition of any unexpended funds made available for the United States Trade and Travel Administration.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsections (a) and (b) shall become effective on October 1, 1997.

(2) DUTIES OF THE SECRETARY OF COMMERCE.—Subsection (c) shall become effective on the date of enactment of this Act.

SEC. 1301D. RECOUPMENT OF CERTAIN DEPARTMENT OF DEFENSE COSTS FOR EQUIPMENT SOLD DIRECTLY BY CONTRACTORS TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

(a) RECOUPMENT REQUIRED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

"§2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by contractors to foreign countries and international organizations

"(a) CONTRACT CLAUSE.—Each contract of the Department of Defense for the procurement of major defense equipment shall include a clause that provides for the Department of Defense to recoup from the contractor, for each unit of such equipment that is sold directly to an eligible country or international organization, the unit amount of any nonrecurring costs incurred by the Department of Defense for research, 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 production of major defense equipment to be recouped from a contractor is one-half of the amount that is determined by dividing—

"(1) 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 such equipment that will be sold by the contractor directly to eligible foreign countries and international organizations, and

"(B) the estimated total number of the units of such equipment that will be purchased from such contractor by the Department of Defense.

"(c) MAXIMUM AMOUNT RECOUPED.—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—

"(1) the unit amount computed for such equipment under subsection (b), by

"(2) twice the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount.

"(d) WAIVER AUTHORITY.—The President may waive recoupment of up to 50 percent of the unit amount for each unit of major defense equipment sold to an eligible country or international organization by a contractor if the President determines that the recoupment requirement would otherwise be a severe impediment to the sale.

"(e) SOURCE OF PAYMENT OF RECOUPMENT.—A contractor may pay amounts to be recouped by the Department of Defense out of any charges that the contractor imposes on an eligible country or international organization for such purpose or out of any other source of funds available to the contractor.

"(f) DEFINITIONS.—In this section:

"(1) The term 'major defense equipment' has the meaning given that term in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

"(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).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410*l* the following:

"2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by contractors to foreign countries and international organizations.".

(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 solicitations issued by the Department of Defense for offers for contracts for the procurement of major defense equipment (as defined in such section) on or after that date.

SEC. 1301E. RECOUPMENT OF CERTAIN DEPARTMENT OF DEFENSE COSTS FOR EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

(a) RECOUPMENT REQUIRED.—

(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 ACT.

"(a) LETTER OF OFFER CLAUSE.—Each letter of offer for the sale of major defense equipment under this Act to a foreign country or international organization shall include a clause that provides for the Department of Defense to recoup from the foreign country or international organization the unit amount of any nonrecurring costs incurred by the Department of Defense for research, 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 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—

"(1) 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 such equipment that will be sold by the contractor directly to eligible foreign countries and international organizations, and

"(B) the estimated total number of the units of such equipment that will be purchased from such contractor by the Department of Defense.

"(c) MAXIMUM AMOUNT RECOUPED.—The total amount of the nonrecurring costs of research, development, and production recouped from a foreign country or international organization under this section for particular major defense equipment may not exceed the amount determined by multiplying—

"(1) the unit amount computed for such equipment under subsection (b), by

"(2) twice the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount.".

(2) CONFORMING AMENDMENT.—Section 21(e)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(B)) is amended by inserting ", as determined in section 22A," after "proportionate amount".

(b) EFFECTIVE DATE.—Section 22A of the Arms Export Control Act, 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 letters of offer for the sale of major defense equipment issued 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)(B) if the President determines that imposition of the full charge or charges would be a severe impediment to the sale of the major defense equipment.".

SEC. 1301G. ELIMINATION OF AUTHORITY AND FUNDING FOR HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Except as provided in subsection (c) and except in the case of a contract or agreement entered into before the date of enactment of this Act, notwithstanding any other provision of law, the Secretary of Transportation may not enter into any contract or agreement to carry out, or carry out, a demonstration project or program authorized under—

(1) the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240);

(2) the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17);

(3) the Surface Transportation Assistance Act of 1982 (Public Law 97-424);

(4) any law described in section 6002(c); or

(5) any other law.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—Except as provided in subsection (c), no Federal funds shall be expended in connection with a demonstration project or program subject to subsection (a).

(c) EXCEPTION.—Subsections (a) and (b) shall not apply to any contract or agreement entered into, or any funds made available, solely for the purpose of terminating, as a result of this section, any action or activity involving a demonstration project or program subject to subsection (a).

(d) RESCISSION OF FUNDS.—There are rescinded—

(1) any amounts set aside or otherwise made available, for demonstration projects and programs subject to subsection (a), that are not expended as a result of this section; and

(2) the underlying appropriations for the amounts described in paragraph (1).

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 and telephone loan if the Administrator of the Rural Utilities Service finds no substantial need for the federally funded insured loans. The Administrator shall make a determination of need based on factors including the following:

(1) evidence that the applicant does not have the working capital available to internally finance the activity for which loan funds are requested: and

(2) documentation that the financing need cannot be met first directly from sources of private credit, or second from sources of private credit with a guarantee of the principal of and interest on the loan, unless the applicant cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of the Rural Electrification Act.

SEC. 1301I. AMENDMENT TO THE EXPORT-IMPORT 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. 635(b)(1)(B)) is amended to read as follows: "The Bank shall consider its average cost of money as one factor in its determination 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 international agreements to reduce government subsidized export financing, and

(iii) other methods, where such consideration and methods of reducing the cost of transactions do not impair the Bank's primary function of expanding United States exports through fully competitive financing.".

SEC. 1301J. PRIVATE SECTOR FUNDING FOR CERTAIN RESEARCH AND DEVELOPMENT BY NASA RELATING TO AIRCRAFT 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 activities relating to the performance of aircraft (including supersonic aircraft and subsonic 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 research and development activities referred to in that subsection that are necessary for—

(1) ensuring the safety and security of the national air space system; or

(2) mitigating the environmental effects of, or noise resulting from, the operation of aircraft.

SEC. 1301K. 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 for the use of the electromagnetic spectrum, shall have any further force or effect after the date of the 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:

"(i) REQUIREMENT FOR COMPETITIVE BIDDING.—

"(1) REQUIREMENT.—Except as provided in paragraph (2), the Commission shall grant a license or construction permit involving the use of a portion of the electromagnetic spectrum not covered by a license or permit granted before the date of the enactment of the Balanced Budget Reconciliation Act of 1995 only through the use of a system of competitive bidding established by the Commission.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Commission may grant a license or permit covered this subsection—

"(i) by alternative adjudication:

"(ii) without a fee: or

"(iii) for a nominal fee.

"(B) TERM OF LOW-FEE LICENSES AND PERMITS.—The term of a license granted under clause (ii) of subparagraph (A) or a permit granted under clause (iii) of that subparagraph may not exceed 10 years, except that the Commission may permit the renewal of the license or permit for an additional period of 10 years.

"(C) NOTICE AND WAIT REQUIREMENT.—The Commission may not grant a license or permit under this paragraph until 120 days after the date on which the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a notice of the intent of the Commission to so grant the license or permit.

"(D) CONTENTS OF NOTICE.—Each notice submitted under subparagraph (C) shall include the following:

"(i) A 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 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 PROCUREMENT OF ADDITIONAL B-2 BOMBER AIRCRAFT.

(a) PROHIBITION.—Notwithstanding any other provision of law, funds available to the Department of Defense may not be obligated or expended—

(1) to procure additional B-2 bomber aircraft in excess of the 20 operational and one prototype aircraft for which funds were appropriated before the date of the enactment of this Act: or

(2) to maintain an industrial base capability for B-2 bomber production in excess of that which is necessary to complete production and delivery 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 FOSSIL FUELS 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 fossil fuels 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—

(1) terminate any fossil fuels program research and development project that does not meet the cost-sharing requirement of subsection (a): and

(2) take all actions necessary 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. PRYOR) proposed an amendment to the bill S. 1357, supra: as follows:

Strike section 6002.

On page 1746, line 11, strike "2001" and insert "2000".

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100 percent
1996	80 percent
1997	60 percent
1998	40 percent
1999	20 percent.

CHAFEE (AND OTHERS) AMENDMENT NO. 2973

Mr. CHAFEE (for himself, Mr. CONRAD, and Mr. KERRY) proposed an amendment to the bill S. 1357, supra: as follows:

On page 767, strike lines 12 through 15 and insert the following:

"(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and".

BYRD (AND OTHERS) AMENDMENT NO. 2974

(Ordered to lie on the table.)

Mr. BRYD (for himself, Mr. FEINGOLD, Mr. SIMON, Mr. DORGAN, Mr. ROBB, Mr. HOLLINGS, and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill S. 1357, supra: as follows:

On page 1469, strie beginning with line 1 and all that follows through page 1650, line 9.

BOND (AND PRYOR) AMENDMENT NO. 2975

Mr. BOND (for himself Mr. PRYOR, Mr. DOLE, Mr. DOMENICI, Mr. COVERDELL, 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 1588, 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(l) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

"For taxable years beginning in	The applicable percentage is:
1996 and 1997	60
1998 and thereafter	100."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SNOWE (AND OTHERS) AMENDMENT NO. 2976

Ms. SNOWE (for herself, Mr. JEFFORDS, Mr. COHEN, Mr. KERRY, Mr. DODD, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MOCK, Mrs. HUTCHISON, and Mr. GRAMM) proposed an amendment to the bill S. 1357, supra: as follows:

On page 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF 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 chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(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

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) 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 these important cancer drug treatments.

DORGAN (AND OTHERS) AMENDMENT NO. 2977

Mr. DORGAN (for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN) proposed an

amendment to the bill S. 1357, supra; as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 2. 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:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

"(h) 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 in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(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(c)).

"(2) IMPORTED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person 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 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(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.

"(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and".

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h))."

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking "or (E)" and inserting "(E), or (H)".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(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 redesignating the following subclauses accordingly):

"(III) imported property income,".

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

GRAMM AMENDMENT NO. 2978

Mr. GRAMM proposed an amendment to the bill S. 1357, supra; as follows:

On page 767, strike all after "(2)" on line 6 through "(4)" on line 16.

KERRY (AND OTHERS) AMENDMENT NO. 2979

Mr. KERRY (for himself, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in the bill insert the following new section:

"SEC . MINIMUM WAGE.

"(1) Findings. The federal minimum wage has not been raised since 1991; and

"(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

"(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

"(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

"(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year; and

"(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

"(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

"(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

"(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

"(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

"Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.

MURKOWSKI (AND JOHNSTON) AMENDMENT NO. 2980

Mr. DOMENICI (for MURKOWSKI, for himself and Mr. JOHNSTON) proposed an amendment to the bill S. 1357, supra; 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 2006):".

(2) On page 361, line 7, delete "thereafter," and insert in lieu thereof "thereafter, except for fiscal years 2003 and 2004.".

KENNEDY (AND OTHERS) AMENDMENT NO. 2981

Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. EXON, Mr. WELLSTONE, Mr. SIMON, and Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 12807.

WELLSTONE (AND FEINGOLD) AMENDMENT NO. 2982

Mr. WELLSTONE (for himself and Mr. FEINGOLD) proposed and amendment to the bill S. 1357, supra; as follows:

At the end of chapter 1 of subtitle I of title XII, insert:

SEC. ___. REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(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 corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(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 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;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit;

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: "This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.", and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(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.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. 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 12161 and section 12162 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.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. ___. ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking "subtitle." and all that follows and inserting "subtitle—

"(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

"(2) for any taxable year, the housing cost amount of such individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

(c) 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.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 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, 1996."

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 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.

PRYOR (AND OTHERS) AMENDMENT NO. 2983

Mr. PRYOR (for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mr. KOHL, Mr. GRAHAM, and Mr. REID) proposed an amendment to the bill S. 1357, supra; as follows:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

"The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities which furnish services under the State plan.

SIMON (AND OTHERS) AMENDMENT NO. 2984

Mr. SIMON (for himself, Mr. CONRAD, Mr. ROBB, and Mr. KERREY) proposed an amendment to the bill S. 1357, supra; as follows:

STATEMENT OF PURPOSE

The purpose of the Common Sense Balanced Budget Act of 1995 is to provide a credible proposal to balance the budget in seven years through real reductions in government programs, while maintaining a fundamental commitment to the needs of society. This proposal places deficit reduction first, without borrowing money of pay for ill-advised tax cuts. This proposal spreads the sacrifice, without dismantling Medicare, Medicaid, welfare, the Earned Income Tax Credit, discretionary spending, agriculture, education, or the environment.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(b) SHORT TITLE.—This Act may be cited as the "Common Sense Balanced Budget Act of 1995".

(c) TABLE OF CONTENTS.—

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this section 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 Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) PRODUCTION FACILITY.—Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

(c) DEFINITIONS.—Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

(d) EMPLOYEES OF THE CORPORATION.—

(1) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are amended to read as follows:

"(A) IN GENERAL.—It 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 at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(B) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(2) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b-4(e)(4)) is amended—

(A) by striking "AND DETAILEES" in the heading;

(B) by striking the first sentence;

(C) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(D) by striking the last sentence.

(e) MARKETING AND CONTRACTING AUTHORITY.—

(1) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(A) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(B) by striking the first sentence.

(2) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(A) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(B) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(3) PRICING.—Section 1402 (42 U.S.C. 2297c-1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(4) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c-2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

"(1) 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) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of 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) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(5) LIABILITIES.—

(A) Subsection (a) of section 1406 (42 U.S.C. 2297c-5(a)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(B) Subsection (b) of section 1406 (42 U.S.C. 2297c-5(b)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(C) Subsection (d) of section 1406 (42 U.S.C. 2297c-5(d)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(6) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 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.".

(f) PRIVATIZATION OF THE CORPORATION.—

(1) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"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 organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(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 executed by the Department and the Corporation pursuant to section 1403.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge 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 actions 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 effected 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 provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(5) TAX TREATMENT OF PRIVATIZATION.—

"(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) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health 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 entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(2) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(3) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by paragraph (2)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(4) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by paragraph (3)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(5) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by paragraph (4)) 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 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 257(e) 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. 1503. Establishment of private corporation.
"Sec. 1504. Ownership limitations.
"Sec. 1505. Exemption from liability.
"Sec. 1506. Resolution of certain issues.
"Sec. 1507. Application of privatization proceeds.".

(7) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(8) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d-1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

(g) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

(h) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f-1(a)) is amended by striking "other than" and inserting "including".

(i) CONFORMING AMENDMENTS.—

(1) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(A) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(i) Section 1202.
(ii) Sections 1301 through 1304.
(iii) Sections 1306 through 1316.
(iv) Sections 1404 and 1405.
(v) Section 1601.
(vi) Sections 1603 through 1607.

(B) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(2) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(A) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by subsection (f)(1)).

(B) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(C) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102-486.

(3) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b-4) is amended—

(A) by repealing subsections (a), (b), (c), and (d), and

(B) in subsection (e)—

(i) by striking the subsection designation and heading,

(ii) by redesignating paragraphs (1) and (2) (as added by subsection (d)(1)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(iii) by striking paragraph (3), and

(iv) by redesignating paragraph (4) (as amended by subsection (d)(2)) as subsection (c), and by moving the margins 2-ems to the left.

SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Paragraph (3) of section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is repealed.

SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

Subtitle B—Central Utah

SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.".

Subtitle C—Army Corps of Engineers

SEC. 1131. REGULATORY PROGRAM FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the "Army Civil Works Regulatory Program Fund" (hereinafter in this section referred to as the "Regulatory Program Fund") into which shall be deposited fees collected by the Secretary of the Army pursuant to subsection (b). Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

(b) REGULATORY FEES.—

(1) COLLECTION.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army 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 of the Army at rates that will allow for the recovery of receipts at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

Subtitle D—Helium Reserve

SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE FACILITY.

(a) SHORT TITLE.—This section may be cited as the "Helium Act of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this section 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 Helium Act (50 U.S.C. 167 to 167n).

(c) AUTHORITY OF SECRETARY.—Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

"(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

"(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after such date.

"(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

"(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

"SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

"(a) STORAGE AND TRANSPORTATION.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective one year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

"(c) DISPOSAL OF FACILITIES.—(1) Within one year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

"(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium.

"(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as

moneys received under this Act for purposes of section 6(f).".

(d) SALE OF CRUDE HELIUM.—Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(2) Subsection (b) is amended by inserting "crude" before "helium" and by adding the following at the end thereof: "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 will 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 down through the period at the end of such subsection and inserting the following: "all funds required to be repaid to the United States as of October 1, 1994 under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

"(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

"(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.".

(4) Subsection (d) is amended to read as follows:

"(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.".

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting "(1)" after "(f)" and by adding the following at the end thereof:

"(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.".

(e) ELIMINATION OF STOCKPILE.—Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) REVIEW OF RESERVES.—Not later than January 1, 2014 the Secretary shall review the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

"(b) RESERVES BELOW 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are less than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2019. 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 this subsection. The price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c) by the year 2019 with minimum market disruption. The date specified in this subsection for completion of such sales and for repayment of debt may be extended by the Secretary for a period of not to exceed 5 additional years if necessary in order to assure repayment of such debt with minimum market disruption.

"(c) RESERVES ABOVE 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are more than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million 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 this subsection with minimum disruption of the market for crude helium.

"(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.".

(f) REPEAL OF AUTHORITY TO BORROW.—Sections 12 and 15 are repealed.

Subtitle E—Territories

SEC. 1151. 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 GENERAL.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) CONFORMING CHANGES.—(A) Section 5 of the Act of 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 section 3 of this Act" and inserting "Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands"; and

(ii) by striking "Interior and Insular Affairs" and inserting "Resources".

TITLE II—AGRICULTURE

SEC. 2001. 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:

Subtitle A—Commodity Programs

SEC. 2101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

"SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

"(b) ADJUSTMENT ACCOUNT.—

"(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

"(A) in the case of wheat, 7/10 of a bushel;

"(B) in the case of corn, a bushel; and

"(C) in the case of other feed grains, a quantity determined by the Secretary.

"(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

"(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

"(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

"(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

"(A) $4,500,000,000 for fiscal year 1996; and

"(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

"(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

"(5) TIER 1 SUPPORT.—

"(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

"(i) the payment quantity determined under subparagraph (B); by

"(ii) the payment factor determined under subparagraph (C).

"(B) PAYMENT QUANTITY.—

"(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

"(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

"(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

"(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

"(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

"(C) PAYMENT FACTOR.—

"(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of wheat; or

"(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

"(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of corn; or

"(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

"(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

"(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(6) ENVIRONMENTAL RESERVE PROGRAM.—

"(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

"(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

"(c) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

"(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

"(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

"(4) REPAYMENT.—

"(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

"(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing domestic market price for each covered commodity; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

"(d) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—

"(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

"(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

"(ii) the level at which a loan may be repaid under subsection (c)(4).

"(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

"(i) the date the producers lost beneficial interest in the crop; or

"(ii) the end of the marketing year for the crop.

"(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

"(e) PROGRAM COST LIMITATION.—

"(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

"(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

"(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

"(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

"(C) an acreage limitation program; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

"(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

"(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

"(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

"(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.".

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

"(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.".

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

"(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.".

SEC. 2102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (a)(5), by striking "1998" each place it appears and inserting "2002";

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002";

(5) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops"; and

(6) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1996 through 2002 crops".

SEC. 2103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2003"; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking "AND 1995" and inserting "THROUGH 2002"; and

(ii) by striking "and 1995" and inserting "through 2002"; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking "1997" each place it appears and inserting "2002"; and

(ii) in the heading of clause (v)(II), by striking "1997" and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1998 through 2002 crops".

SEC. 2104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 1088 of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(A) in the section heading, by striking "1997" and inserting "2002";

(B) in subsection (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(C) in subsection (g)—

(i) by striking "1997" in paragraphs (1) and (2)(A)(ii)(II) and inserting "2002"; and

(ii) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2002 crops".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsections (a)(1), (b), and (f), by striking "1997" each place it appears and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "1995" and inserting "2002"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(a)(2)) is amended—

(1) by striking "(2) SUPPORT RATES.—The" and inserting the following:

"(2) SUPPORT RATES.—

"(A) 1991-1995 CROPS.—The"; and

(2) by adding at the end the following:

"(B) 1996-2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.".

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358-1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

"(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota."; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking "undermarketings and"; and

(B) in paragraph (3), by striking "(including any applicable undermarketings)".

SEC. 2105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "1996" and inserting "2002";

(2) in subsections (a), (b), (f), (g), and (k), by striking "1996" each place it appears and inserting "2002";

(3) in subsection (h)(2)(C), by striking "and 1997" and inserting "through 2002".

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking "Subject to subparagraph (B), the" and inserting "The";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 2106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

"(2) MAJOR COUNTRY.—The term 'major country' includes—

"(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

"(B) a country of the European Union; and

"(C) the People's Republic of China.

"(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

"(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

"(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

"(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

"(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(e) ADJUSTMENT IN SUPPORT LEVEL.—

"(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

"(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

"(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

"(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(f) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

"(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

"(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(h) LOAN TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under

this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

"(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(k) MARKETING ASSESSMENTS.—

"(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

"(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

"(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(4) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(l) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(m) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 2107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

"SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

"(a) LOSS.—

"(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

"(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

"(C) ADJUSTMENT FOR QUALITY.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

"(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

"(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

"(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

"(4) TERM OF LOAN.—

"(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

"(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

"(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

"(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

"(A) the loan level determined for the marketing year; or

"(B) the higher of—

"(i) the loan level determined for the marketing year multiplied by 70 percent; or

"(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

"(6) PREVAILING WORLD MARKET PRICE.—

"(A) IN GENERAL.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

"(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

"(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

"(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of wool export sales and wool export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

"(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

"(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the marketing year under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

"(A) the payment rate; by

"(B) the payment quantity of wool for the marketing year.

"(2) PAYMENT RATE.—

"(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

"(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

"(ii) the loan level determined for the marketing year.

"(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

"(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

"(d) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(j) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

"(k) LIMITATION ON OUTLAYS.—

"(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

"(A) $75,000,000, during any single marketing year; or

"(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

"(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

"(3) PERSON LIMITATION.—

"(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

"(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

"(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.".

SEC. 2108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1996" and inserting "2002".

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "oilseeds" and all that follows through "determine).".

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 2109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking "1997" each place it appears and inserting "2002"; and

(2) in subsection (b), by striking "1995" and inserting "2002";

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking "1995" and inserting "2002".

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking "1995" and inserting "2002".

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking "1995" and inserting "2002".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1997" each place it appears and inserting "2002";

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking "1997" each place it appears and inserting "2002"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears and inserting "2002".

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking "1995" each place it appears in subsections (a), (b)(1), and (c) and inserting "2002".

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101-624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "2002"; and

(2) in section 1154(b)(1)(A), by striking "1995" each place it appears and inserting "2002".

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 2110. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 2201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 100,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 2,500 swine; or

"(vi) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

"(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

"(c) COST-SHARING AND INCENTIVE PAYMENTS.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(d) TECHNICAL ASSISTANCE.—

"(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

"(1) $200,000,000 for fiscal year 1997; and

"(2) $250,000,000 for each of fiscal years 1998 through 2002.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

"SEC. 1238B. CONSERVATION PRIORITY AREAS.

"(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota, South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

"(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

"(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

"(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

"(1) farming or ranching practices on the farm;

"(2) characteristics of natural resources on the farm;

"(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

"(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

"(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

Subtitle C—Agricultural Promotion and Export Programs

SEC. 2301. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than $800,000,000 for fiscal year 1996.".

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 living with their spouses)".

SEC. 2402. 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.".

(2) Current Government-to-Government and direct grower-to-grower discussions with Canada have failed to result in changes in Canadian trade practices.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should intensify efforts to resolve the Canadian potato trade concerns and begin to consider formal action under the dispute resolution procedures of the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

TITLE III—COMMERCE

SEC. 3101. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bans 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 REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(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, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 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.";

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) COMPLETION OF C-BLOCK PCS AUCTION.—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 93-253 (FCC 93-510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92-9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).";" and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 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 section 309(j).".

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal year 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 (5) 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 is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

"(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect 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.

"(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees 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 are 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.

"(6) 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 its functions under this Act; and

"(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) 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	230
"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 deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(B) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs	7".

(b) REGULATORY FEES.

(1) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(2) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(A) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

(B) by adding at the end the following new paragraph:

"(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).".

(3) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

"Terrestrial television satellite operations	500".

(4) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(5) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(A) in section 9, by striking subsection (i); and

(B) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

"(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

"(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

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 video signals transmitted pursuant to an analog television license. After such date, the Commission shall not issue any television licenses other than advanced television licenses.

(b) ANNUAL SURVEY.—The Secretary of Commerce shall, each calendar year from 1998 to 2005, 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 signals 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 analog television signals is reclaimed and reallocated in such manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. The Commission shall complete the competitive bidding procedure by May 1, 2002.

(d) MINIMUM SERVICE OBLIGATION.—

(1) PROVISION OF CAPABILITY TO RECEIVE ADVANCED SERVICES.—The Commission shall, by regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced television licensees 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, for 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, to the extent technically feasible, ensure that picture and audio quality are at least as good as that provided to recipients within the Grade B contour of an analog television license. The Commission shall revoke the license of any advanced television licensee who fails to meet this condition of the license.

(e) DEFINITIONS.—As used in this section:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87-268.

(3) The term "analog television licenses" means licenses issued pursuant to 47 C.F.R. 73.682 et seq.

SEC. 3104. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Section 2004 of title 39, United States Code, is repealed.

(2)(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

TITLE IV—TRANSPORTATION

SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.

Subsection (e) of section 20115 of title 49, United States Code, is repealed.

SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended—

(1) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents per ton not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter"; and

(2) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents per ton, not to exceed 30 cents per ton for each fiscal year thereafter".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year, for each fiscal year thereafter.".

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 interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) 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 FLOOR FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking "the greater of" and all that follows through "applicable size" and inserting the following: "50 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (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. 1710(a)) is amended by inserting before the period the following: ": *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(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:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"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 claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program 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.

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 by the mortgagor of the amount owed to the Secretary.

"(b) ASSIGNMENT.—

"(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) 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 mortgage payments within 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 procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses resulting from the mortgage modification.

"(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.".

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

SEC. 6101. CONSUMER PRICE INDEX.

(a) ADJUSTMENTS APPLICABLE TO INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Paragraph (3) of section 1(f) of the Internal Revenue Code of 1986 (defining cost-of-living adjustment) is amended by striking the period at the end and inserting a comma and by inserting at the end the following flush material:

"reduced by the number of percentage points determined under paragraph (8) for the calendar year for which such adjustment is being determined."

(2) LIMITATION ON INCREASES.—Subsection (f) of section 1 of such Code is amended by adding at the end the following new paragraph:

"(8) LIMITATION ON INCREASES IN CPI.—

"(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, 2001, and 2002, 0.3 percentage point.

"(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—The Secretary shall adjust the number taken into account under paragraph (3)(B) so that any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period."

(b) ADJUSTMENTS APPLICABLE TO CERTAIN ENTITLEMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of determining the amount of any cost-of-living adjustment which takes effect for benefits payable after December 31, 1995, with respect to any benefit described in paragraph (5)—

(A) any increase in the relevant index (determined without regard to this subsection) shall be reduced by the number of percentage points determined under paragraph (2), and

(B) the amount of the increase in such benefit shall be equal to the product of—

(i) the increase in the relevant index (as reduced under subparagraph (A)), and

(ii) the average such benefit for the preceding calendar year under the program described in paragraph (5) which provides such benefit.

(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, 2001, and 2002, 0.3 percentage point.

(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—Any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.

(3) PARAGRAPH (1) TO APPLY ONLY TO COMPUTATION OF BENEFIT AMOUNTS.—Paragraph (1) shall apply only for purposes of determining the amount of benefits and not for purposes of determining—

(A) whether a threshold increase in the relevant index has been met, or

(B) increases in amounts under other provisions of law not described in paragraph (5) which operate by reference to increases in such benefits.

(4) DEFINITIONS.—For purposes of this subsection—

(A) COST-OF-LIVING ADJUSTMENT.—The term "cost-of-living adjustment" means any adjustment in the amount of benefits described in paragraph (5) which is determined by reference to changes in an index.

(B) INDEX.—

(i) INDEX.—The term "index" means the Consumer Price Index and any other index of price or wages.

(ii) RELEVANT INDEX.—The term "relevant index" means the index on the basis of which the amount of the cost-of-living adjustment is determined.

(5) BENEFITS TO WHICH SUBSECTION APPLIES.—For purposes of this subsection, the benefits described in this paragraph are—

(A) old age, survivors, and disability insurance benefits subject to adjustment under section 215(i) of the Social Security Act (but the limitation under paragraph (1) shall not apply to supplemental security income benefits under title XVI of such Act);

(B) retired and retainer pay subject to adjustment under section 1401a of title 10, United States Code;

(C) civil service retirement benefits under section 8340 of title 5, United States Code, foreign service retirement benefits under section 826 of the Foreign Service Act of 1980, Central Intelligence Agency retirement benefits under part J of the Central Intelligence Agency Retirement Act of 1964 for certain employees, and any other benefits under any similar provision under any retirement system for employees of the government of the United States;

(D) Federal workers' compensation under section 8146a of title 5, United States Code;

(E) benefits under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974; and

(F) benefits and expenditure limits under title XVIII or XIX of the Social Security Act.

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Senate

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I understand Senator KASSEBAUM is prepared to offer an amendment with reference to education. I understand we have 10 minutes on our side and they have 10 minutes on their side.

The PRESIDING OFFICER. The Senator from New Mexico is not correct in that. There is 10 minutes equally divided, 5 minutes to a side.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2962

(Purpose: 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)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, proposes an amendment numbered 2962.

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

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

The amendment is as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1426 line 9.

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 we 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 REQUIREMENT FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2002(a)(1) of the Social Security Act (42 U.S.C. 1397a(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 under this title for each fiscal year in an amount equal to the lesser of—

"(i) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or

"(ii) the allotment of the State for the fiscal year.

"(B) A State to which a payment is made under this title shall use the payment for services directed at the goals set forth in section 2001, subject to the requirements of this title.".

SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO CERTAIN HIGH-INCOME INDIVIDUALS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking "and" at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following new paragraph:

"(19) compensation shall not be payable to any individual for any benefit year if the taxable income of such individual for such individual's most recent taxable year ending before the beginning of such benefit year exceeded $120,000; and".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to benefit years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1995, the amendments made by this section shall apply to benefit years beginning after the day 30 calendar days after the first day on which such legislature is in session on or after December 31, 1995.

SEC. 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO INDIVIDUALS WHO VOLUNTARILY LEAVE MILITARY SERVICE.

(a) GENERAL RULE.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

"(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 45 days or more) in the armed forces or the commissioned corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual—

"(A) was discharged or released under honorable conditions,

"(B) did not resign or voluntarily leave the service, and

"(C) was not discharged or released for cause as defined by the Secretary of Defense;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a discharge or release after the date of the enactment of this Act.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1903(a), by striking "From" and inserting "Subject to section 1931, from";

(2) by redesignating section 1931 as section 1932; and

(3) by inserting after section 1930 the following new section:

"LIMITATION ON FEDERAL FINANCIAL PARTICIPATION BASED ON PER BENEFICIARY SPENDING

"SEC. 1931. (a) IN GENERAL.—Subject to subsection (e), the total amount of State expenditures for medical assistance for which Federal financial participation may be made under section 1903(a) for quarters in a fiscal year (beginning with fiscal year 1997) may not exceed the sum of the following:

"(1) NONDISABLED MEDICAID CHILDREN.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid children (described in subsection (b)(1)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(2) NONDISABLED MEDICAID ADULTS.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid adults (described in subsection (b)(2)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent nondisabled elderly medicaid beneficiaries (described in subsection (b)(3)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(4) DISABLED MEDICAID BENEFICIARIES.—The product of—

"(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 under subsection (c)(1) for such category individuals for the fiscal year.

"(5) ADMINISTRATIVE EXPENDITURES.—The product of—

"(A) the number of full-year equivalent medicaid beneficiaries who are in any category of beneficiaries in the State in the fiscal year, and

"(B) the per capita limit established under subsection (c)(1) for administrative expenditures for the fiscal year.

This section shall not apply to expenditures for which no Federal financial participation is available under this title.

"(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

"(1) NONDISABLED MEDICAID CHILDREN.—The term 'nondisabled medicaid child' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is under 21 years of age.

"(2) NONDISABLED MEDICAID ADULTS.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 21 years of age but under 65 years of age.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARY.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 65 years of age.

"(4) DISABLED MEDICAID BENEFICIARIES.—The term 'disabled medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title who is entitled to such assistance solely on the basis of blindness or disability.

For purposes of this section, nondisabled medicaid children, nondisabled medicaid adults, nondisabled elderly medicaid beneficiaries, and disabled medicaid beneficiaries each constitutes a separate category of medicaid beneficiaries.

"(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

"(1) IN GENERAL.—The Secretary shall establish for each State a per capita medical assistance limit for each category of medicaid beneficiaries described in subsection (b) and for administrative expenditures for a fiscal year equal to the product 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 (or the per capita matchable adminstrative expenditures determined under paragraph (2)(B)) for such State for each of the 3 previous fiscal years.

"(B) INFLATION FACTOR.—The rolling 2-year CPI increase factor (determined under paragraph (3)(A)) for the fiscal year involved.

"(C) TRANSITIONAL ALLOWANCE.—The transitional allowance factor (if any) applicable under paragraph (3)(B) to such limit for the previous fiscal year and for the fiscal year involved.

"(2) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES.—For purposes of this section—

"(A) 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—

"(i) 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—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under section 1903(a) (under paragraphs (1) and (5) of such section) during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in any category of medicaid beneficiary in the State in such fiscal year.

"(3) INCREASE FACTORS.—In this subsection—

"(A) ROLLING 2-YEAR CPI INCREASE FACTOR.—The 'rolling 2-year CPI increase factor' for a fiscal year is 1 plus the percentage by which—

"(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

"(ii) the average value of such index for months in the 3 previous fiscal years.

"(B) TRANSITIONAL ALLOWANCE FACTORS.—

"(i) FISCAL YEAR 1996.—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 1.031;

"(IV) for the category of disabled medicaid beneficiaries is 1.015; and

"(V) for administrative expenditures is 1.046.

"(ii) SUBSEQUENT FISCAL YEARS FOR NONDISABLED CHILDREN AND ADULTS AND FOR DISABLED CATEGORIES.—The 'transitional allowance factor' for the categories of nondisabled medicaid children, nondisabled medicaid adults, and disabled medicaid beneficiaries—

"(I) for fiscal year 1997 is 1.01, and

"(II) for each subsequent fiscal year is 1.0.

"(iii) SUBSEQUENT FISCAL YEARS FOR THE ELDERLY AND ADMINISTRATIVE EXPENDITURES.—The 'transitional allowance factor' for the category of nondisabled elderly medicaid beneficiaries and for administrative expenditures for fiscal years after fiscal year 1996 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 this subsection for the State for the fiscal year.

"(d) SPECIAL RULES AND EXCEPTIONS.—For purposes of this section, expenditures attributable to any of the following shall not be subject to the limits established under this section and shall not be taken into account in establishing per capita medical assistance limits under subsection (c)(1):

"(1) DSH.—Payment adjustments under section 1923.

"(2) MEDICARE COST-SHARING.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)).

"(3) SERVICES THROUGH IHS 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.

"(e) DEFINITIONS.—In this section, the term 'medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title.

"(f) ESTIMATIONS AND NOTICE.—

"(1) 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) notifying each State of the estimations and adjustments referred to in subparagraph (A).

"(2) DETERMINATION 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), the number 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.—

"(1) REPORT ON PER CAPITA EXPENDITURES.—If a State makes a change (on or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the addition or 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 for additional 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 the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits under 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 denial of medical assistance for individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures is greater than the applicable per capita limit established under subsection (c)(1) for such catetory, the Secretary shall adjust the payment limits under subsection (a) to reflect any decrease in average per beneficiary expenditures that would result from such change.

"(h) TREATMENT OF STATES OPERATING UNDER WAIVERS.—The Secretary shall provide for such adjustments to the per capita limits under subsection (c) for a fiscal year as may be appropriate to take into account the case of States which either—

"(1) during any of the 3 previous fiscal years was providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is no longer providing such medical assistance under such waiver; or

"(2) during any of the 3 previous fiscal years was not providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is providing such medical assistance under such a waiver.".

(b) ENFORCEMENT-RELATED PROVISIONS.—

(1) ASSURING ACTUAL PAYMENTS TO STATES CONSISTENT WITH LIMITATION.—Section 1903(d) of such Act (42 U.S.C. 1396b(d)) is amended—

(A) in paragraph (2)(A), by striking "The Secretary" and inserting "Subject to paragraph (7), the Secretary", and

(B) by adding at the end the following new paragraph:

"(7)(A) The Secretary shall take such steps as are necessary to assure that payments under this subsection for quarters in a fiscal year are consistent with the payment limits established under section 1931 for the fiscal year. Such steps may include limiting such payments for one or more quarters in a fiscal year based on—

"(i) an appropriate proportion of the payment limits for the fiscal year involved, and

"(ii) numbers of individuals within each category, as reported under subparagraph (B) for a recent previous quarter.

"(B) Each State shall include, in its report filed under paragraph (1)(A) for a calendar quarter—

"(i) the actual number of individuals within each category described in section 1931(b) for the second previous calendar quarter and (based on the data available) for the previous calendar quarter, and

"(ii) an estimate of such numbers for the calendar quarter involved.".

(2) RESTRICTION ON AUTHORITY OF STATES TO APPLY LESS RESTRICTIVE INCOME AND RESOURCE METHODOLOGIES.—Section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

"(C) Subparagraph (A) shall not apply to plan amendments made on or after October 15, 1995.".

(c) CONFORMING AMENDMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following:

"(16) in accordance with section 1931, with respect to amounts expended to the extent they exceed applicable limits established under section 1931(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1996.

Subtitle B—Medicaid Managed Care

SEC. 7101. 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—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

"STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS

"SEC. 1932. (a) MANDATORY ENROLLMENT.—

"(1) 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 under this title to enroll with 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 under which prepaid payments to such provider are made on an actuarially sound basis.

"(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll with such providers.

"(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 sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with the provider;

"(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such

individual who does not enroll with an eligible managed care provider during the enrollment period specified by the State shall be enrolled by the State with such a provider in accordance with such process; and

"(v) establishes the sanctions provided for in section 1934.

"(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 individuals with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

"(B) provide for an equitable distribution of individuals among all eligible managed care providers available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such providers.

"(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

"(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the provider as of the first day of the month in which the individual is again eligible for such assistance.

"(2) CONDITIONS.—Paragraph (1) shall only apply if—

"(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the eligible managed care provider;

"(B) the eligible managed care provider continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

"(C) the eligible managed care provider complies with the requirements of section 1933.

"(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to an eligible managed care provider of any reenrollment of an individual under this subsection.

"(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this section, a 'special needs individual' means any of the following:

"(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

"(A) is eligible for supplemental security income under title XVI;

"(B) is described under section 501(a)(1)(D);

"(C) is a child described in section 1902(e)(3); or

"(D) is in foster care or is otherwise in an out-of-home placement.

"(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

"(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

"(B) an individual who is a resident in transitional housing.

"(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health Service Act), or the spouse or dependent of such a worker.

"(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c))).".

(b) CONFORMING AMENDMENT.—Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(1) in the matter preceding subparagraph (A), by striking "subsection (g) and in section 1915" and inserting "subsection (g), section 1915, and section 1931,"; and

(2) in subparagraph (B)—

(A) by striking "a health maintenance organization, or a" and inserting "or with an eligible managed care provider, as defined in section 1933(g)(1), or".

SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MEDICAID SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (42 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 day before the date of 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 date which is 1 year after the date of the enactment of this Act.

(c) ELICIBLE MANAGED CARE PROVIDERS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as amended by sections 7001(a) and 7101(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"ELICIBLE MANAGED CARE PROVIDERS

"SEC. 1933. (a) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELICIBLE MANAGED CARE PROVIDER.—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 organization with a contract under Section 1876, a provider sponsored network or any other plan which provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B).

"(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

"(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that—

"(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B);

"(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 per encounter 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 approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

"(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) has a contract with the State 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; and

"(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 for services in the enrollment, reenrollment, or disenrollmentof individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible 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 for cause at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

"(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with an eligible managed care provider on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion shall be considered to terminate such enrollment for cause.

"(C) NOTICE OF TERMINATION.—

"(i) NOTICE TO STATE.—

"(I) 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, the State or local welfare agency, or an office of an eligible managed care provider.

"(II) BY PLANS.—Any eligible managed care provider which receives notice of an individual's termination of enrollment with such provider through receipt of such notice at an office of an eligible managed care provider shall provide timely notice of the termination to the State agency administering the State plan under this title.

"(ii) NOTICE TO PLAN.—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 (i) 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 promptly enrolled with another eligible managed care provider and notified of such enrollment.

"(3) 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.

"(c) QUALITY ASSURANCE.—

"(1) ACCESS TO SERVICES.—Each eligible managed care provider shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such provider and the State

under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

"(2) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall respond to requests from 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 which assures continuity; and

"(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

"(B) with respect to assistance provided to such 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 obtain the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

"(3) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

"(A) REVIEW OF MEDICAID MANAGED CARE PLAN CONTRACT.—

"(i) 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). Such review shall specifically evaluate the extent to which the medicaid managed care plan provides such services in a timely manner.

"(ii) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(I) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(II) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(III) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(IV) other activities as prescribed by the Secretary or the State.

"(iii) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care plan, except that the results may not be made available in a manner that discloses the identity of any individual patient.

"(B) DEEMED COMPLIANCE.—

"(i) MEDICARE PLANS.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if the plan is an eligible organization with a contract in effect under section 1876.

"(ii) PRIVATE ACCREDITATION.—

"(I) IN GENERAL.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if—

"(aa) the plan is accredited by an organization meeting the requirements described in clause (iii); and

"(bb) the standards and process under which the plan is accredited meet such requirements as are established under subclause (II), without regard to whether or not the time requirement of such subclause is satisfied.

"(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of the 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 accrediting organization meets the requirements of this clause if the organization—

"(I) is a private, nonprofit organization;

"(II) 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.

"(C) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual 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).

"(4) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(5) 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), complete and timely information concerning the following:

"(I) The services that the plan provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

"(II) The identity, locations, qualifications, and availability of participating health care providers.

"(III) The rights and responsibilities of enrollees.

"(IV) The services provided by the plan which are subject to prior authorization by the plan as a condition of coverage (in accordance with paragraph (6)(A)).

"(V) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

"(VI) The performance of the plan in serving individuals eligible for medical assistance under the State plan under this title.

"(ii) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care plan shall—

"(I) upon request, make the information described in clause (i) available to participating health care providers, enrollees, and potential enrollees in the plan's service area; and

"(II) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the plan that are covered either directly or through a method of referral and prior authorization.

"(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), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

"(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

"(iii) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization.

"(iv) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

"(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall provide the State with aggregate encounter data for early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

"(6) TIMELINESS OF PAYMENT.—An eligible managed care provider shall make payment to health care providers for items and services which are subject to the contract under section 1931(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the provider on a timely basis and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the eligible managed care provider agree to an alternate payment schedule.

"(7) ADDITIONAL QUALITY ASSURANCE REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(A) CONDITIONS FOR PRIOR AUTHORIZATION.—A medicaid managed care plan may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval—

"(i) provides that such decisions are made in a timely manner, depending upon the urgency of the situation; and

"(ii) permits coverage of medically necessary medical assistance provided to an enrollee without prior authorization in the event of an emergency.

"(B) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care plan shall establish an internal grievance procedure under which a plan enrollee or a provider on behalf of such an enrollee who is eligible for medical assistance under the State plan under this title may challenge the denial of coverage of or payment for such assistance.

"(C) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care plan shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1902(x).

"(D) PATIENT ENCOUNTER DATA.—

"(i) IN GENERAL.—Each medicaid managed care plan shall maintain sufficient patient

encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27). The plan shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

"(ii) COMPLIANCE.—A medicaid managed care plan shall—

"(I) submit the data maintained under clause (i) to the State; or

"(II) demonstrate to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii).

"(iii) STANDARDS.—In establishing managed care quality assurance guidelines under clause (ii)(II), the Secretary shall consider—

"(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 operated facilities 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 to hospitals 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 comparison 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 the standard described in clause (i).

"(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE 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)(3), but only, with respect to a medicaid managed care plan, after completion of the internal grievance procedure established by the plan under subsection (c)(6)(B).

"(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if such procedure does not exist or if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature.

"(e) MISCELLANEOUS.—

"(1) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF ELIGIBLE MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each eligible managed care provider shall provide that an individual eligible for medical assistance 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; or

"(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 either—

"(I) by referring the enrollee 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

"(II) if appropriate services are not available through the eligible managed care provider, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the eligible managed care provider; and

"(ii) the eligible managed care provider shall require each health care provider with whom the eligible managed care provider has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

"(B) PRIOR AUTHORIZATION.—An enrollee referred for treatment under subparagraph (A)(i)(I), or permitted to seek treatment outside of or apart from the eligible managed care provider under subparagraph (A)(i)(II) shall be deemed to have obtained any prior authorization required by the provider.

"(C) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of subparagraph (A), a child with special health care needs is a child who is receiving services under—

"(i) a program administered under part B or part H of the Individuals with Disabilities Education Act;

"(ii) a program for children with special health care needs under title V;

"(iii) a program under part B or part D of title IV; or

"(iv) any other program for children with special health care needs identified by the Secretary.

"(3) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care plan shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care plan shall meet the requirements of section 1876(i)(8).

"(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE MANAGED CARE PROVIDERS.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), eligible managed care providers that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such providers. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.".

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MEDICAID MANAGED CARE PLANS.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: "Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through an eligible managed care provider (as defined in section 1933(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.".

(e) CLARIFICATION OF CERTIFICATION REQUIREMENTS FOR PHYSICIANS PROVIDING SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i)(12) of such Act (42 U.S.C. 1396b(i)(12)) is amended—

(1) in subparagraph (A)(i), to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association.";

(2) in subparagraph (B)(i), to read as follows:

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association."; and

(3) in both subparagraphs (A) and (B)—

(A) by striking "or" at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.

Section 1933 of the Social Security Act, as added by section 7102(c)(2), is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(1) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

"(A) IN GENERAL.—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:

"(iii) maintains sufficient numbers of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the plan to the same extent that such services are available to individuals enrolled in the plan who are not recipients of medical assistance under the State plan under this title;

"(iv) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

"(v) provides preventive and primary care services in locations that are readily accessible to members of the community; and

"(vi) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible.

"(vii) complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(B) PROOF OF ADEQUATE PRIMARY CARE CAPACITY AND SERVICES.—Subject to subparagraph (C), a medicaid managed care plan that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of subparagraph (A):

"(i) Rural health clinics, as defined in section 1905(l)(1).

"(ii) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

"(iii) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

"(C) SUFFICIENT PROVIDERS OF SPECIALIZED SERVICES.—Notwithstanding subparagraphs (A) and (B), a medicaid managed care plan may not be considered to have satisfied the requirements of subparagraph (A) if the plan does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

"(2) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—Each medicaid managed care plan that enters into a written provider participation agreement with a provider described in paragraph (1)(B) shall—

"(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care plan includes in its agreements with other participating providers with respect to—

"(i) the scope of covered services for which payment is made to the provider;

"(ii) the assignment of enrollees by the plan to the provider;

"(iii) the limitation on financial risk or availability of financial incentives to the provider;

"(iv) accessibility of care;

"(v) professional credentialing and recredentialing;

"(vi) licensure;

"(vii) quality and utilization management;

"(viii) confidentiality of patient records;

"(ix) grievance procedures; and

"(x) indemnification arrangements between the plans and providers; and

"(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.".

SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED CARE.

(a) IN GENERAL.—Section 1933 of the Social Security Act, as added by section 7102(c)(2) and amended by section 7103, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) ANTI-FRAUD PROVISIONS.—

"(1) PROVISIONS APPLICABLE TO ELIGIBLE MANAGED CARE PROVIDERS.—

"(A) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

"(i) IN GENERAL.—An eligible managed care provider may not knowingly—

"(I) have a person described in clause (iii) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the plan's equity; or

"(II) have an employment, consulting, or other agreement with a person described in clause (iii) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(ii) EFFECT OF NONCOMPLIANCE.—If a State finds that an eligible managed care provider is not in compliance with subclause (I) or (II) of clause (i), the State—

"(I) shall notify the Secretary of such noncompliance;

"(II) may continue an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(III) may not renew or otherwise extend the duration of an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iii) PERSONS DESCRIBED.—A person is described in this clause if such person—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

"(III) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

"(B) RESTRICTIONS ON MARKETING.—

"(i) DISTRIBUTION OF MATERIALS.—

"(I) IN GENERAL.—An eligible managed care provider may not distribute marketing materials within any State—

"(aa) without the prior approval of the State; and

"(bb) that contain false or materially misleading information.

"(II) PROHIBITION.—The State may not enter into or renew a contract with an eligible managed care provider for the provision of services to individuals enrolled under the State plan under this title if the State determines that the provider intentionally distributed false or materially misleading information in violation of subclause (I)(bb).

"(ii) SERVICE MARKET.—An eligible managed care provider shall distribute marketing materials to the entire service area of such provider.

"(iii) PROHIBITION OF TIE-INS.—An eligible managed care provider, or any agency of such provider, may not seek to influence an individual's enrollment with the provider in conjunction with the sale of any other insurance.

"(iv) PROHIBITING MARKETING FRAUD.—Each eligible managed care provider shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the provider, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.

"(2) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE PLANS.—

"(A) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid 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 to officers and employees of the State with responsibilities relating to contracts with such plans or to the default enrollment process described in section 1932(a)(1)(D)(iv) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

"(B) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care plan shall—

"(i) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that—

"(I) the plan has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

"(II) the plan uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and plan; and

"(III) the plan does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

"(ii) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) relating to the information reported pursuant to clause (i) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

"(iii) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the plan and a party in interest (as defined in section 1318(b) of such Act); and

"(iv) agree to make available to its enrollees upon reasonable request—

"(I) the information reported pursuant to clause (i); and

"(II) the information required to be disclosed under sections 1124 and 1126.

"(C) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

"(i) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care plan shall make adequate provision against the risk of insolvency.

"(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in

clause (i), the Secretary shall consider - solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

(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 risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(D) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care plan shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) the most recent audited financial statement of the plan's net earnings, in accordance with guidelines established by the Secretary in consultation with the States, and consistent with generally accepted accounting principles; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the plan and entitled to medical assistance under the State plan under this title.".

SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 7001, 7101(a), and 7102(c), is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

"ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS

"SEC. 1934. As a condition of approval of a State plan under this title, a State shall—

"(1) find, determine, and make assurances satisfactory to the Secretary that—

"(A) the rates it pays medicaid managed care plans for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

"(i) the items and services to which the rate applies,

"(ii) the eligible population, and

"(iii) the rate the State pays providers for suchitems and services; and

"(B) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care plan; and

"(2) report to the Secretary, at least annually, on—

"(A) the rates the States pays to medicaid managed care plans, and

"(B) the rates medicaid managed care plans pay for hospital services (and such other information as medicaid managed care plans are required to submit to the State pursuant to section 1933(c)(5)(E).".

SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS.

(a) SANCTIONS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as previously amended, is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1934 the following new section:

"SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may 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)(1)(B) if the provider—

"(1) fails 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 permitted under this title;

"(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by 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 by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

"(4) misrepresents or falsifies information that is furnished

"(A) to the Secretary or the State under section 1932 or 1933; or

"(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

"(5) fails to comply with the requirements of section 1876(i)(8).

"(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 such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

"(D) Subject to subparagraph (B), 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.

"(2) 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 a need for temporary management while—

"(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.

"(3) 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) TREATMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

"(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of an eligible managed care provider which has failed to meet the requirements of section 1932 or 1933, the State shall have the authority to terminate its contract with such provider under section 1932(a)(1)(B) and to enroll such provider's enrollees with other eligible managed care providers (or to permit such enrollees to receive medical assistance under the State plan under this title other than through an eligible managed care provider).

"(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

"(1) 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)(1)(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.

"(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1932(a)(1)(B) for individuals enrolled after the date the Secretary notifies an eligible managed care provider of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(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)(1)(B) unless the provider is provided with a hearing prior to the termination.

"(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with an eligible managed care provider which is the subject of a hearing to terminate the provider's contract with the State of the hearing and that the enrollees may immediately disenroll with the provider for cause.

"(3) OTHER PROTECTIONS 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 MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (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 penalty or proceeding under section 1128A.".

(b) CONFORMING AMENDMENT RELATING TO TERMINATION OF ENROLLMENT FOR CAUSE.—Section 1933(b)(2)(B) of the Social Security Act, as added by this part, is amended by inserting after "coercion" the following: ", or pursuant to the imposition against the eligible managed care provider of the sanction described in section 1935(b)(3),".

SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1932(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1932(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1932 of such Act.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1996, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1932 of the Social Security Act.S0634

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1932(b)(3)(P) of such Act.

SEC. 7109. CONFORMING AMENDMENTS.

(a) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) of the Social Security Act (42 U.S.C. 1320a-7(b)(6)(C)) is amended—

(1) in clause (i), by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1).": and

(2) in clause (ii), by inserting "section 1115 or" after "approved under".

(b) STATE PLAN REQUIREMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking "section 1903(m)" and inserting "section 1932(a)(1)(B)"; and

(2) in subsection (a)(57), by striking "hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "or hospice program":

(3) in subsection (e)(2)(A), by striking "or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or

(6) of section 1903(m) under a contract described in section 1903(m)(2)(A):

(4) in subsection (p)(2)—

(A) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1).":

(B) by striking "an organization" and inserting "a provider"; and

(C) by striking "any organization" and inserting "any provider"; and

(5) in subsection (w)(1), by striking "sections 1903(m)(1)(A) and" and inserting "section".

(c) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of an eligible managed care provider with a contract under section 1932(a)(1)(B).".

(d) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1)." each place it appears.

(e) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended to read as follows:

"(iv) ENROLLMENT WITH ELIGIBLE MANAGED CARE PROVIDER.—Enrollment of the caretaker relative and dependent children with an eligible managed care provider, as defined in section 1933(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through an eligible managed care provider in accordance with sections 1932, 1933, and 1934.".

(f) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Section 1926(a) of such Act (42 U.S.C. 1396r-7(a)) is amended in paragraphs (1) and (2) by striking "health maintenance organizations under section 1903(m)" and inserting "eligible managed care providers under contracts entered into under section 1932(a)(1)(B)" each place it appears.

(g) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) of such Act (42 U.S.C. 1396r-8(j)(1)) is amended by striking "***Health Maintenance Organizations, including those organizations that contract under section 1903(m)." and inserting "health maintenance organizations and medicaid managed care plans, as defined in section 1933(a)(2),".

(h) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking "(except section 1903(m)" and inserting "(except sections 1932, 1933, and 1934)".

SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1996; or

(2) in the case of assistance furnished under a contract described in section 7102(b), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) APPLICATION TO WAIVERS.—

(1) EXISTING WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this subtitle shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of sections 1932, 1933, and 1934 of the Social Security Act (as added by this subtitle).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDICAID COST-SHARING.

(a) IN GENERAL.—Subsections (a)(3) and (b)(3) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are amended by striking everything that follows "other care and services" and inserting the following: "will be established pursuant to a public schedule of charges and will be adjusted to reflect the income, resources, and family size of the individual provided the item or service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

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 carry out 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 medicaid 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 a 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 MANDATES.—It is the sense of Congress that if a State is required by future legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under its medicaid 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 ON WAIVERS.

(a) IN GENERAL.—In considering applications for medicaid waivers—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within ninety days after the date of the submission of the application of the Secretary, either denies the application in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application, 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 waiver of 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 the authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed as follows:

(1) 2 FEDERAL OFFICIALS.—The President shall appoint 2 Federal officials, one of whom the President shall designate as chairperson of the Commission.

(2) 4 MEMBERS OF CONGRESS.—(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 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.

(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 by 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 under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 7302. DUTIES OF COMMISSION.

(a) STUDY OF MEDICAID PROGRAM.—

(1) IN GENERAL.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary regarding the need for changes (in addition to the changes effected under this title) in the laws and regulations regarding the medicaid program under title XIX of the Social Security Act.

(2) SPECIFIC CONCERNS.—The Commission shall specifically address each of the following:

(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 felxibility 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 of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(3) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(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 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) in subsection (a)(1)—

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

(B) by striking "(1)" and inserting "(1)(A)",

(C) in clause (i) (as so redesignated) by striking "(b)(1)" and inserting "(b)(1)(A)", and

(D) by adding at the end the following:

"(B) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that utilizes the definition of such hospitals specified in subsection (b)(1)(B) in lieu of the definition established by the State under subparagraph (a)(i).";

(2) in subsection (a)(2)(A)—

(A) by inserting "(i)" after "(2)(A)".

(B) by striking "paragraph (1)" and inserting "paragraph (1)(A)(i)", and

(C) by adding at the end the following:

"(ii) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1996, the State must submit to the Secretary by not later than April 1, 1996, the State plan amendment described in paragraph (1)(B), consistent with subsection (c), effective for inpatient hospital services furnished on or after July 1, 1996.";

(3) in subsection (b)—

(A) in the heading, by striking "HOSPITALS DEEMED DISPROPORTIONATE SHARE" and inserting "DISPROPORTIONATE SHARE HOSPITALS",

(B) in paragraph (1)—

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

(ii) by striking "(1) For purposes of subsection (a)(1)" and inserting "(1)(A) For purposes of subsection (a)(1)(A)", and

(iii) by adding at the end the following:

"(B) For purposes of subsection (a)(1)(B), a hospital that meets the requirements of subsection (d) is a disproportionate share hospital only if—

"(i) in the case of a hospital that is not described in subsection (d)(2)(A)(i), the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent; or

"(ii) in the case of a hospital that is described in subsection (d)(2)(A)(i)—

"(I) the hospital meets the requirement of clause (i), or

"(II) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) exceeds 20 percent.";

(C) in paragraph (2) by striking "(1)(A)" and inserting "(1)",

(D) in paragraph (3) by striking "(1)(B)" and inserting "(1)", and

(E) by striking paragraph (4);

(4) in subsection (c)—

(A) in paragraph (2), by striking "subparagraph (A) or (B) of subsection (b)(1)" and inserting "clause (i) or (ii) of subsection (b)(1)(A)",

(B) by striking paragraph (3), and

(C) in the matter following paragraph (3)—

(i) by striking "(1)(B)" each place it appears and inserting "(1)(A)(ii)", and

(ii) by striking "(2)(A)" each place it appears and inserting "(2)(A)(i)" ; and

(5) in subsection (e)—

(A) in paragraph (1)(C), by striking "meets the requirement of subsection (d)(3)" and inserting "makes payments under this section only to hospitals described in subsection (b)(1)(B)", and

(B) in paragraph (2)—

(i) by inserting "and" at the end of subparagraph (B), and

(ii) by striking subparagraph (C).

(b) DIRECT PAYMENT BY STATE.—Section 1923(a) of such Act (42 U.S.C. 1396r-4(a)), as amended by subsection (a), is further amended—

(1) in paragraph (1), by adding at the end the following

"(C) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State provides that any payments made under this section with respect to individuals who are—

"(i) entitled to benefits under the State plan, and

"(ii) enrolled with a health maintenance organization or other managed care plan,

are, at the option of the hospital, made directly to such hospital by the State."; and

(2) in paragraph (2)(A)(ii), by striking "amendment described in paragraph (1)(B)" and inserting " amendments described in subparagraphs (B) and (C) of paragraph (1)".

(c) ADJUSTMENT TO NATIONAL DSH LIMIT; STATE ALLOCATIONS.—The Secretary of Health and Human Services shall make appropriate adjustments in—

(1) the national DSH payment limit established under section 1923(f)(1(B) of the Social Security Act, and

(2) the State DSH allotments established under section 1923(f)(2) of such Act.

to reflect the amendments made by subsection (a).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(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

SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.

The Administrator of the Health Care Financing Administration shall develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program in the case of individuals who are dually eligible for benefits under such program and under the medicare program.

SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.

The Administrator of the Health Care Financing Administration shall develop improved mechanisms, such as picture identification documents and smart documents, to provide methods of improved identification and tracking of beneficiaries and providers that perpetrate fraud against the medicaid program.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE; REFERENCES IN TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE OF 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.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

SEC. 8001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

"(B) THROUGH A MEDICARE CHOICE PRODUCT.—Through a Medicare Choice product (as defined in paragraph (2)), which may be—

"(i) a product offered by a provider-sponsored organization,

"(ii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

"(iii) a product providing for benefits on a fee-for-service or other basis.

Such a product may be a high deductible/medisave product (and a contribution into a Medicare Choice medical savings account (MSA)) under the demonstration project provided under section 1859.

"(2) MEDICARE CHOICE PRODUCT DEFINED.—For purposes this section and part C, the term 'Medicare Choice product' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

"(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

"(A) NON-MEDICARE-CHOICE OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-Medicare Choice option'.

"(B) MEDICARE CHOICE OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a Medicare Choice product is considered to have elected the 'Medicare Choice option' for that product.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice product offered by a Medicare Choice organization only if the organization in relation to the product serves the geographic area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a Medicare Choice product offered by a limited enrollment Medicare Choice organization (as defined in section 1852(c)(4)(D)) only if—

"(i) the individual is eligible under section 1852(c)(4) to make such election, and

"(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)), 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 election with respect to such sponsor.

"(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a Medicare Choice product offered by a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for Medicare Choice products in an area as soon as such products become available in that area.

"(3) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice product offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice product offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-Medicare Choice option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a Medicare Choice organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate Medicare Choice product offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a Medicare Choice product is discontinued, if the individual had elected such product at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the Medicare Choice program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in Medicare Choice products under this section.

"(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the Medicare Choice option during the initial election period described in subsection (e)(1).

"(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which Medicare Choice products are offered:

"(A) INFORMATION BOOKLET.—

"(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the Medicare Choice option under this section during coverage election periods.

"(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

"(I) the benefits (including cost-sharing) and premiums for the various Medicare Choice products in the areas involved;

"(II) the quality of such products, including consumer satisfaction information; and

"(III) rights and responsibilities of medicare beneficiaries under such products.

"(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of Medicare Choice products and the benefits and premiums for such products.

"(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of part C.

"(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the Medicare Choice option provided under this section in the annual notice of medicare benefits under section 1804.

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to

benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a Medicare Choice product during the period, coverage under 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 first 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).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(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) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product may change such election to another Medicare Choice product or to the non-Medicare Choice option.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 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 Medicare Choice products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the Medicare Choice product under such option becomes effective.

"(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue 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) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

"(B) in the case of an individual who 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)(3)(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; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) 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 date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and 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.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—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.

"(4) 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.

"(g) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a Medicare Choice organization under section 1858(a) with respect to an individual electing a Medicare Choice product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(h) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approahces 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 projects.".

SEC. 8002. MEDICARE CHOICE PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

"SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'Medicare Choice organization' means a public or private entity 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 FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)).

"(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)(4)(B)).

"(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 licensure of the organization under the law of the State are identical to the standards established under section 1856(b).

"(c) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(d) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year;

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization;

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year; and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)) or a qualified association (as defined in section 1852(c)(4)(B)), this subsection shall not apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1) applies or 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.

"(2) TREATMENT OF TAFT-HARTLEY SPONSORS.—An entity that is a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement 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.

"(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

"SEC. 1852. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—Each Medicare Choice product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

"(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(3) SATISFACTION OF REQUIREMENT.—A Medicare Choice product offered by a Medicare Choice organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's 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) NON-MEDICARE CHOICE LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-Medicare Choice option.

"(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-Medicare Choice option) of the payment rate provided under the contract.

"(b) ANTIDISCRIMINATION.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(c) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under section 1805 with respect to a Medicare Choice product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

"(A) first to such individuals as have elected the product at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under section 1805 for a Medicare Choice product it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under section 1805 with respect to a Medicare Choice product it offers if—

"(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-Medicare Choice option (as defined in section 1805(a)(3)(A)).

"(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each Medicare Choice organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATIONS.—

"(A) TAFT-HARTLEY SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

"(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(B) QUALIFIED ASSOCIATIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a Medicare Choice product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' 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 formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

"(II) does not exist solely or principally for the purpose of selling insurance, and

"(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(C) UNIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATION.—In this part and section 1805, the term 'limited enrollment Medicare Choice organization' means a Medicare

Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

"(F) EMPLOYER, ETC..—In this paragraph, the terms 'employer', '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.

"(d) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) 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—

"(A) the amount 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

"(B) the enrollment capacity in relation to the product in each such area.

"(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

"(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

"(B) 1/12 of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

"(3) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice organization under this part may not vary among individuals who reside in the same payment area.

"(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each 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 subsection (c)(3)(B).

"(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a Medicare Choice organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization.

"(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) 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 (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

"(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

"(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall 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 in the previous sentence, a Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(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 subsequent annual contract periods, 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 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 finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other 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).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

"(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice products offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) 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 or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled

with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(g) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

"(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PRODUCT.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its medicaid program under title XIX with those provided under a Medicare Choice product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

"PATIENT PROTECTION STANDARDS

"SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A Medicare Choice organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each Medicare Choice product it offers:

"(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) Potential 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, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

"(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

"(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

"(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

"(b) ACCESS TO SERVICES.—

"(1) IN GENERAL.—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 within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

"(D) coverage is provided for emergency services (as defined in paragraph (5)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a Medicare Choice product provides benefits for items and services (not 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 such a 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—

"(A) 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

"(B) the amount charged by the entity furnishing such items and services.

"(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of physicians' services or renal dialysis services described in subparagraph (C) which are furnished by a participating physician or provider of services 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 were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of physicians' services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a Medicare Choice organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(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 under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

"(4) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides covered services through a network of providers shall provide coverage of services provided by a provider that is not part of the network if the service cannot be provided by a provider that is part of the network and the organization authorized the service directly or through referral by the primary care physician who is designated by the organization for the individual involved.

"(5) EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital, and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (6)) until the condition is stabilized.

"(6) EMERGENCY MEDICAL CONDITION.—In paragraph (5), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(7) PROTECTION AGAINST BALANCE BILLING.—The limitations on billing that apply to a provider (including a physician) under parts A and B in the case of an individual electing the non-Medicare Choice option shall apply to an individual who elects the Medicare Choice option in the case of any provider that (under the Medicare Choice option) may bill the enrollee directly for for services.

"(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(d) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluates the continuity and coordination of care that enrollees receive;

"(F) has mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establishes or alters practice parameters;

"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) is evaluated on an ongoing basis as to its effectiveness; and

"(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

"(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider 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 established under section 1856 to carry out this subsection and subsection (c).

"(e) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(f) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

"(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

"(g) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—Each Medicare Choice organization may not distribute marketing materials unless—

"(A) at least 45 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) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a Medicare Choice product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards in relation to Medicare Choice products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

"(i) 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 an electronic, standardized form and manner specified by the Secretary) such information 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 risk-adjusted payments under section 1855.

"(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and well-being of enrollees.

"(C) Information on health care expenditures and the volume and prices of procedures.

"(D) Information on the flexibility permitted by plans to enrollees in their selection of providers.

"(3) SPECIAL TREATMENT.—The Secretary may waive the provision of such information under paragraph (2), or require such other information, as the Secretary finds appropriate in the case of a newly established Medicare Choice organization for which such information is not available.

"(j) DEMONSTRATION PROJECTS.—The Secretary shall provide for demonstration projects to determine the effectiveness, cost, and impact of alternative methods 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 information about health care outcomes resulting from coverage under different products and policies.

"PROVIDER-SPONSORED NETWORKS

"SEC. 1858. (a) PROVIDER-SPONSORED NETWORK DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored network' means a public or private entity is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—for purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) CERTIFICATION PROCESS FOR PROVIDER-SPONSORED NETWORKS.—

"(1) FEDERAL ACTION ON CERTIFICATION.—If—

"(A) a State fails to complete action on a licensing application of an eligible organization that is a provider sponsored network

within 90 days of receipt of the completed application, or

"(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry.

the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

"(2) FEDERAL CERTIFICATION PROCEDURES.—

"(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider sponsored network) and its sponsor as meeting the requirements of this part in cases described in paragraph (1).

"(B) REQUIREMENTS.—Such process shall—

"(i) set forth the standards for certification.

"(ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application.

"(iii) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under paragraph (1)(A)(ii). and

"(iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later then 5 business days after receipt of an application under this subsection. the Secretary shall notify the applicant as to whether the application includes all information necessary to process the application is received by the Secretary.

"(C) EFFECT OF CERTIFICATIONS.—

"(i) IN GENERAL.—A certificate under this subsection shall be issued for not more than 36 months and may not be renewed. unless the Secretary determines that the State's laws and regulations provide an unreasonable barrier to market entry.

"(ii) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under paragraph (1) during the period the certificate is in effect.

"(D) STATE STANDARDS.—During the first 24 months after the issuance of the Federal rules relating to the Federal certification process established under this paragraph. a State may apply to the Secretary to demonstrate that the State's licensure standards and process are consistent with Federal standards. incorporate appropriate flexibility to reflect the deliver system of provider-sponsored networks. and do not present an unreasonable barrier to market entry. If the Secretary approves the State licensure standards and process under this subparagraph. a provider sponsored network in such a State shall be required to obtain State licenses (as well as meet all other applicable Federal standards).

"(3) REPORT.—Not later then December 31. 1999. the Secretary shall report to Congress on the Federal certification system under paragraph (2). including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that provider-sponsored networks provide services directly to enrollees through affiliated providers.".

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION OF SECTION 1876.—Section 1876 (42 U.S.C. 1395mm) is repealed.

(2) GME ADJUSTMENT.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by inserting ", including all days attributable to patients enrolled in an eligible organization with a risk-sharing contract under part C" after "part A".

(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.

"(2) EXCEPTION FOR IDENTICAL STANDARDS.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides the application of standards that are identical to the standards established for provider-sponsored organizations under this part.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 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 subsection (b)) with respect to that individual for that area.

"(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine. and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) 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) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for 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 any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(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 in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)). is 1/12 of the annual Medicare Choice capitation rate specified in paragraph (2) for that area for the year. adjusted to reflect the actuarial value of benefits under this title with respect to 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 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and 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 such year for all payment areas (weighted to reflect the number of medicare beneficiaries in each such area).

"(ii) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED 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 1876(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded from such rate any amounts which the Secretary estimated would have been payable under this title during the year for—

"(I) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients: and

"(II) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).

"(3) PAYMENT AREA DEFINED.—

"(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.

"(4) CLASSES.—

"(A) IN GENERAL.—For purposes of this section. the Secretary shall define appropriate classes of enrollees. consistent with paragraph (5). based on age. gender. welfare status. institutionalization. and such other factors as the Secretary determines to be appropriate. so as to ensure actuarial equivalence. The Secretary may add to. modify. or substitute for such classes. if such changes will improve the determination of actuarial equivalence.

"(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1. 1997.

"(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) 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 (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.

"(c) PER CAPITA GROWTH RATES.—

"(1) FOR 1996.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B). the per capita growth rates for 1996. for a payment area assigned to a service utilization cohort under subsection (d). shall be the following:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the below average service utilization cohort. 9.6 percent.

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the above average service utilization cohort, 4.8 percent.

"(iii) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 2.1 percent.

"(B) BUDGET NEUTRAL ADJUSTMENT.—The Secretary shall adjust the per capita growth rates specified in subparagraph (A) for all the areas by such uniform factor as may be necessary to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996.

"(2) FOR SUBSEQUENT YEARS.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT SET AT 143 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the below average service utilization cohort for the year shall be 160 percent of the national average per capita growth rate for the year (as specified under paragraph (3)).

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT SET AT 80 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the above average service utilization cohort for the year shall be 80 percent of the national average per capita growth rate for the year.

"(iii) HIGHEST SERVICE UTILIZATION COHORT SET AT 40 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 35 percent of the national average per capita growth rate for the year.

"(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

"(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

"(A) 1996 is 6.0 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, and

"(H) each subsequent year is 5.5 percent.

"(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

"(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

"(A) BELOW AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the below average service utilization cohort.

"(B) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.00 but less than 1.20 shall be assigned to the above average service utilization cohort.

"(C) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

"(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

"(A) the annual Medicare Choice capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

"(B) the input-price-adjusted annual national Medicare Choice capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

"(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

"(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national Medicare Choice capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

"(i) the national standardized Medicare Choice capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED MEDICARE CHOICE CAPITATION RATE.—In this paragraph, the 'national standardized Medicare Choice capitation rate' for a year is equal to—

"(i) the sum (for all payment areas) of the product of (I) the annual Medicare Choice capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(e) PAYMENT PROCESS.—

"(1) IN GENERAL.—Subject to section 1859(f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a Medicare Choice organization under this part.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization, and payments to a Medicare Choice MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a Medicare Choice product offered by a Medicare Choice organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice product or Non-Medicare Choice option (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a 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, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"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) SOLICITATION OF VIEWS.—In developing standards under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the American Academy of Actuaries.

"(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.—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.

"(3) EFFECTIVENESS.—The standards under this subsection shall take effect for periods beginning on or after January 1, 2000.

"(c) SOLVENCY.—In establishing interim and permanent standards under this section relating to solvency of organizations, the Secretary shall recognize the multiple means of demonstrating solvency, including—

"(1) reinsurance purchased through a recognized commerce company or through a capitive company owned directly or indirectly by 3 or more provider-sponsored organizations,

"(2) unrestricted surplus,

"(3) guarantees, 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.

"(d) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(e) 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 to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"MEDICARE CHOICE CERTIFICATION

"SEC. 1857. (a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of organizations and products offered by organizations as meeting the applicable standards for Medicare Choice organizations and Medicare Choice products established under section 1856.

"(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(3) USE OF PRIVATE ACCREDITATION PROCESSES.—

"(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that Medicare Choice organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

"(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

"(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(b) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a Medicare Choice organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

"(c) QUALIFIED ASSOCIATIONS.—In the case of Medicare Choice products offered by a Medicare Choice organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

"CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

"SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a Medicare Choice product offered by 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. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) ENROLLMENT REQUIREMENTS.—

"(A) MINIMUM ENROLLMENT REQUIREMENT.—Subject to subparagraphs (B) and (C), the Secretary may not enter into a contract under this section with a Medicare Choice organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(B) ALLOWING TRANSITION.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

"(C) TREATMENT OF AREAS WITH LOW MANAGED CARE PENETRATION.—The Secretary may waive the requirement of subparagraph (A) in the case of organizations operating 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 this title or 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 performance standards established by the Secretary for at least 2 years, or

"(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 modify or waive the requirement imposed by subparagraph (A)—

"(i) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

"(ii) in the case of an organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(D) ENFORCEMENT.—If the Secretary determines that an organization has failed to comply with the requirements of this paragraph, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(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 was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the 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) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each 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 Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(f) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(f)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a Medicare Choice organization under this section or may impose the intermediate sanctions described in subsection (g)

on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which--

"(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2):

"(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. REPORTS.

(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 a report on alternative provider payment approaches under the medicare program, including—

(1) combined hospital and physician payments per admission,

(2) partial capitation models for subsets of medicare benefits, 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 implementing 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. Such standards shall also cover workers covered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

(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 the development of such standards and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004. TRANSITIONAL 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 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 for Medicare Choice organizations and products are first established under section 1856(a) of such Act with respect to Medicare Choice organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(2) TERMINATION OF CURRENT CONTRACTS.—

(A) RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) COST REIMBURSEMENT CONTRACTS.—The Secretary shall not extend or continue any reasonable 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.

(b) 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 1996) shall be computed—

(1) 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

(2) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative 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 payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO DETERMINE PAYMENTS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1848(j)(2) (42 U.S.C. 1395w@4(j)(2)) is amended to read as follows:

"(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.

"(B) EXCEPTION FOR STATES WITH HIGHEST VARIATION AMONG AREAS.—In the case of the 15 States with the greatest variation in cost 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) for purposes of computing payment amounts for physicians' 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 which 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 would have been made for such services under part B during the year if the amendment 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.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVIDERS.

(a) FREEZE IN UPDATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in paragraph (2), for purposes of determining the amount to paid for an item or service under title XVIII of the Social Security Act, the percentage increase in any economic index by which a payment amount under title XVIII of the Social Security Act is required to be increased during fiscal year 1996 shall be deemed to be zero.

(2) EXCEPTIONS.—Paragraph (1) shall not apply—

(A) to payments for the operating costs of inpatient hospital services of a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act); or

(B) to the determination of hospital-specific FTE resident amounts unde section 1886(h) of such Act.

(b) ECONOMIC INDEX.— The term "economic index" includes—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFS AND HHAS.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA-1993 is amended by striking "1994 and 1995" and inserting "1994, 1995, and 1996".

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking "1995" and inserting "1996", and

(ii) by striking "subsection." and inserting "subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).".

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996".

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA-1993 is amended by striking "1996" and inserting "1997".

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking "1996" and inserting "1997", and

(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 2—PROVISIONS AFFECTING DOCTORS

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $36.40 for all physicians' services."

(c) ESTABLISHING UPPER LIMIT ON MVPS REWARDS.—

(1) IN GENERAL.—Clause (iii) of section 1848(d)(3)(B), as redesignated by subsection (b)(1)(B), is amended by striking "a decrease" and inserting "an increase or decrease".

(2) EFFECTIVE DATE.—The amendment made by paragraph

(1) shall apply to physicians' services furnished on or after January 1, 1996.

SEC. 8212. USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.

Section 1848(f)(2)(B)(iii) (42 U.S.C. 1395w-4(f)(2)(iii), as added by section 8211(a)(2)(C), is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

PART 3—PARVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Seciton 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and"; and

(2) in subclause (XIII), by striking "1998" and inserting "2003".

(b) PPS-EXEMPT HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "thorugh 1997" and inserting "through 1996", and

(ii) by striking "and" at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and".

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395(i)(3)(b)(i)(II) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following. ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 13951(n)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and increase for all physicians' services for a fiscal year beginning with fiscal year 1996 shall be equal to the performance standard rate of increase determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians services under this part for portions of calendar years included in the fiscal year involved,

"(ii) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the average annual percentage growth (divided by 100) in volume and intensity of all physicians' services under this part for the 5-fiscal-year- period ending with the preceding fiscal year, and

"(iv) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) that are estimated to result from changes in law or regulations affecting the percentage increase described in clause (i) and that is not taken into account in the percentage increase described in clause (i) minus 1, multiplied by 100, and reduced by the performance standard factor (specified in subparagraph (C)).".

(b) ANNUAL UPDATE BASED ON CUMULATIVE PERFORMANCE.—

(1) IN GENERAL.—Section 1848(d)(3)(B) (42 U.S.C. 1395w-4(d)(3)(B)) is amended—

(A) in clause (i)—

(i) by striking "IN GENERAL.—" and inserting "For 1992 through 1995",

(ii) by striking "for a year" and inserting "for each of the years 1992 through 1995", and

(iii) by striking ", subject to clause (ii)," and inserting "subject to clause (iii),";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) YEARS BEGINNING AFTER 1996.—

"(I) IN GENERAL.—The update for all physicians' services for a year beginning after 1996 provided under subparagraph (A) shall, subject to clause (iii), be increased or decreased by the same percentage by which the cumulative percentage increase in actual expenditures for all physicians' services in the second previous fiscal year over the third previous fiscal year, was less or greater, respectively, than the performance standard rate of increase (established under subsection (f)) for such services for the second previous fiscal year.

"(II) CUMULATIVE PERCENTAGE INCREASE DEFINED.—In subclause (I), the 'cumulative percentage increase in actual expenditures' for a year shall be equal to the product of the adjusted increases for each year beginning with 1995 up to and including the year involved, minus 1 and multiplied by 100. In the previous sentence, the 'adjusted increase' for a year is equal to 1 plus the percentage increase in actual expenditures for the year (over the preceding year).".

(3) ESTABLISHMENT OF CONVERSION FACTOR FOR 1996.— Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFs AND HHAs.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA—1993 is amended by striking "1994 and 1995" and inserting "1994, 1995, and 1996".

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking "1995" and inserting "1996", and

(ii) by striking "subsection." and inserting "subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).".

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996".

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA-1993 is amended by striking "1996" and inserting "1997".

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii) is amended—

(i) by striking "1996" and inserting "1997", and

(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 2—PROVISIONS AFFECTING DOCTORS

SEC. 8211. UPDATING FEES FOR PHYSICIANS' SERVICES.

(a) ESTABLISHMENT OF SINGLE, CUMULATIVE MVPS.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in subparagraphs (A) and (C) of paragraph (1), by striking "rates of increase for all physicians' services and for each category of such services" each place it appears and inserting "rate of increase for all physicians' services (and, in the case of fiscal years beginning before fiscal year 1996, for each category of such services)"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "IN GENERAL.—" and inserting "FISCAL YEARS 1991 THROUGH 1995.—"

(ii) in the matter preceding clause (i), by striking "a fiscal year (beginning with fiscal year 1991)" and inserting "fiscal years 1991 through 1995", and

(iii) in the matter following clause (iv), by striking "subparagraph (B)) and inserting "subparagraph (C))",

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), and

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

"(B) FISCAL YEAR 1996 AND THEREAFTER.—Unless Congress otherwise provides, the performance standard rate of

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. 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—

(1) by amending subclause (XII) to read as follows:

"(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and"; and

(2) in subclause (XIII), by striking "1998" and inserting "2003".

(b) PPS-EXEMPT HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "thorugh 1997" and inserting "through 1996", and

(ii) by striking "and" at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and".

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 13951(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 13951(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 the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT SERVICES.

(a) IN GENERAL.—Section 1833(a)(2)(B) (42 U.S.C. 13951(a)(2)(B)) is amended by striking "section 1886)—" and all that follows and inserting the following: "section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;".

(b) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and 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) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by 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)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal year 1996 through 2002.".

SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) 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 modifications to the standards used by the Secretary 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 4—PROVISIONS AFFECTING OTHER PROVIDERS

SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.

(a) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(b) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(c) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(d) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

"(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(e) 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.

"(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.".

SEC. 8232. 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 semicolon and inserting "for up to 150 days during any spell of illness;".

(b) CONFORMING AMENDMENT.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell.".

(c) EXCLUSION OF ADDITIONAL PART B COSTS FROM DETERMINATION OF PART B MONTHLY PREMIUM.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in the second sentence of paragraph (i), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5)).", and

(2) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(d) EFFECTIVE DATE.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE MEDICAL EQUIPMENT.

(a) IN GENERAL.—

(1) FREEZE IN UPDATE FOR COVERED ITEMS.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

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

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 2002, 0 percent; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "each of the years 1994 through 1999".

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) in 1996 and each subsequent year, is 90 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 8234. NURSING HOME BILLING.

(a) PAYMENTS FOR ROUTINE SERVICE COSTS.—

(1) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.".

(2) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

(b) 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 NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title to the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

"(1) IN GENERAL.—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 beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) RECONCILIATION OF AMOUNTS.—

"(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period 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 for such services.

"(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(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 subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive

payment that the facility would be eligible to receive with respect to such fiscal year.

"(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 and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase 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 (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 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.

"(3) REBASING OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used 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) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(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.

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay (as determined on a per diem basis); and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1997, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) SPECIAL TREATMENT FOR SMALL SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to 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 section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(i) 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 service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.".

(2) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 13951(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 1999".

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

"TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2101. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

"(c) TRANSFERS TO FUND.—

"(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, 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(b)(2)(B)(ii); and

"(B) the nationwide total of the amounts paid under such sections during the year.

"(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund 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.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY 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.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United

States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent 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 the 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 date specified by the Secretary, and 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.".

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the "Council").

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include 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.

(4) 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.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organizations paid on a capitated basis, see section 1855(b)(2)(B)(ii).

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

"(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount of reductions in payments under section 1855 that are attributable to the operation of subsection (b)(2)(B)(ii) of such section. ".

SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR INDIRECT MEDICAL EDUCATION.

(a) MODIFICATION REGARDING 6.8 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by striking "on or after October 1, 1988," and inserting "on or after October 1, 1999,"; and

(2) by striking "1.89" and inserting "1.68".

(b) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT .—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: "In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.68' is deemed to be 1.48.".

Subtitle D—Provisions Relating to Medicare Beneficiaries

SEC. 8301. PART B PREMIUM.

(a) FREEZE IN PREMIUM FOR 1996.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "December 1995" and inserting "December 1996"; and

(2) in subparagraph (B)(v), by striking "1995" and inserting "1995 and 1996".

(b) ESTABLISHING PREMIUM AT 25 Percent of Program Costs Through 2002.—Section 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by striking "January 1999" and inserting "January 2003".

SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 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. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.

"(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to whom this section applies for the taxable year, 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 (if any) for months during such year that such individual is covered under Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—

"(1) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) of the Social Security Act for such month, over

"(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).

"(2) ADJUSTING MONTHLY ACTUARIAL RATE BY GEOGRAPHIC AREA.—

"(A) IN GENERAL.—In determining the amount described in paragraph (1)(A) for an individual residing in a premium area, the Secretary shall adjust such amount for a year by a geographic adjustment factor established by the Secretary which reflects the relative benefits and administrative costs payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in the year with respect to enrollees residing in such are compared to the national average of such benefits and costs.

"(B) PREMIUM AREA.—In this paragraph, a 'premium area' means a metropolitan statistical area or the portion of a State outside of any metropolitan statistical area.

"(d) PHASEIN.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return, paragraph (1) shall be applied by substituting '$75,000' for '$50,000'.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000.

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 931 and 933.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the amount imposed by subsection (a) shall be the sum of the amounts so imposed determined separately for each spouse, and

"(B) subsections (a) and (d) 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 under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(5) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.

"(f) 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(d)).

"(2) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F (other than section 6654), the supplemental Medicare part B premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental Medicare part B premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55."

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the portion of the supplemental Medicare part B premium (as defined in such section 59B) which is attributable to months during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Paragraph (1) of section 6050F(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the Secretary of Health and Human Services in the case of the information specified in subsection (a)(1)(D)."

(4) The heading for section 6050F is amended by inserting "and medicare part b coverage" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII—Supplemental Medicare part B premiums for high-income individuals."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(B) by striking "(nn)" and inserting "(nn)(1)";

(C) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3).": and

(D) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

"(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).".

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking "and (5)" and inserting "(5)"; and

(B) by striking the period at the end and inserting the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

"(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test 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 subparagraph; 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.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) 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 subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) 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 screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in

which a previous screening colonoscopy was performed.

"(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, 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 screening 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.".

(2) CONFORMING AMENDMENTS.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 13951(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking "and" at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

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

"(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(ii) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) PROSTATE CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

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

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and".

(2) TESTS DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.".

(3) PAYMENT FOR PROSTATE-SPECIFIC ANTIGEN BLOOD TEST UNDER CLINICAL DIAGNOSTIC LABORATORY TEST FEE SCHEDULES.—Section 1833(h)(1)(A) (42 U.S.C. 13951(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(4) CONFORMING AMENDMENT.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

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

"(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(e) DIABETES SCREENING BENEFITS.—

(1) DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES.—

(A) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking "and" at the end of subparagraph (N);

(ii) by striking "and" at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

"(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and".

(B) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

"DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.".

(C) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(A) INCLUDING STRIPS AS DURABLE MEDICAL EQUIPMENT.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: ", and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);".

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by adding "or" at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

"(iv) which is a blood-testing strip for an individual with diabetes,".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

Subtitle E—Medicare Fraud Reduction

SEC. 8401. INCREASING BENEFICIARY AWARENESS OF FRAUD AND ABUSE.

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a "special fraud alert" is a notice 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(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(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. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subparagraph (C); and

(II) 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 to health care programs of the Federal Government.

(vi) An increase or decrease in the potential overutilization of health care services.

(viii) 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(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD AND ABUSE.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(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 report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute 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.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or 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).

(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 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.

SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAYMENTS.

(a) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished during cost reporting periods beginning on or after October 1, 1995.

SEC. 8404. SKILLED NURSING FACILITIES.

(a) CLARIFICATION OF TREATMENT OF HOSPITAL TRANSFERS.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII, as amended by section 8231(d), is further amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract 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 deterrence 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; and

"(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 1153(e)(1) shall apply to contracts and contracting authority 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 by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(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 subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

"(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund 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 Trust Fund as provided in subsection (f), paragraph (3), and title XI.

"(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to

accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

"(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

"(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

"(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

"(B) fines imposed under section 1128B arising out of a claim under this title, and

"(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

"(4) 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 subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization 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. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier 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.".

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a-7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 1895(g)".

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1894, as added by subsection (a), is amended by adding at the end the following new subsection:

"(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and conumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish not less than three demonstration projects under which organizations with a contract under section 1816 or section 1842 of the Social Security Act—

(1) identify practitioners and providers whose patterns of providing care to beneficiaries enrolled under title XVIII of the Social Security Act are consistently outside the norm for other practitioners or providers of the same category, class, or type, and

(2) experiment with ways of identifying fraudulent claims submitted to the program established under such title before they are paid.

(b) DURATION OF PROJECTS.—Each project established under subsection (a) shall last for at least 18 months and shall focus on those categories, classes, or types of providers and practitioners that have been identified by the Inspector General of the Department of Health and Human Services as having a high incidence of fraud and abuse.

(c) REPORT.—Not later than July 1, 1997, the Secretary shall report to the Congress on the demonstration projects established under subsection (a), and shall include in the report an assessment of the effectiveness of, and any recommended legislative changes based on, the projects.

SEC. 8407. REPORT ON COMPETITIVE PRICING.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall submit to Congress a report recommending legislative changes to the medicare program to enable the prices paid for items and services under the medicare program to be established on a more competitive basis.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

Subpart A—Rural Hospitals

SEC. 8501. SOLE COMMUNITY HOSPITALS.

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking "and" at the end; and

(B) by striking subclause (IV) and inserting the following:

"(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

"(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 7022. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994." and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA-93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7023. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: "The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.".

SEC. 7024. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area."; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7027. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—A State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 to use the beds designated for inpatient cases pursuant to subsection (d)(2)(A)(iii) for extended care services.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) GRANDFATHERING OF CERTAIN FACILITIES.—

"(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(II) by striking "72" and inserting "96";

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (*l*) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a-7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b-4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(d) PAYMENT CONTINUED TO DESIGNATED EACHs.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect or designated by the State on January 1, 1996" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect or designated by the State on January 1, 1996" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(e) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 13951(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

"(1) IN GENERAL.—The amount of payment for outpatient critical access hospital services provided in a critical access hospital under this part shall be determined by one of the 2 following methods, as elected by the critical access hospital:

"(A) REASONABLE COST.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services

(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs. The amount of payment shall be determined under either method without regard to the amount of the customary or other charge. ".

(f) SWING BEDS.—Section 1883 (42 U.S.C. 1395tt) is amended by adding at the end the following new subsection:

"(g) Nothing in this section shall prohibit the Secretary from entering into an agreement with a critical access hospital.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8505. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall make any adjustments required under subsection (a) in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year without such adjustments.

SEC. 8506. MEDICAL EDUCATION.

(a) STATE AND CONSORTIUM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—

(A) PARTICIPATION OF STATES AND CONSORTIA.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with paragraph (4)—

(i) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in subsection (b); and

(ii) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(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).

(2) APPLICATIONS.—

(A) IN GENERAL.—Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare and submit 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) information 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; and

(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) may begin a demonstration project under this subsection—

(i) upon approval of such application by the Secretary; or

(ii) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(C) NOTICE AND COMMENT.—A State or consortium shall issue a public notice on the date it submits an application under subparagraph (A) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(3) SPECIFIC REQUIREMENTS FOR PARTICIPANTS.—

(A) REQUIREMENTS FOR STATES.—Each State participating in the demonstration project under this section shall use the payments provided under paragraph (4) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(i) USE OF ALTERNATIVE WEIGHTING FACTORS.—

(I) IN GENERAL.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(II) USE OF PAYMENTS FOR PRIMARY CARE RESIDENTS.—In applying different weighting factors under subclause (I), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) PAYMENTS FOR MEDICAL EDUCATION THROUGH CONSORTIUM.—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) that is established in the State but that is not otherwise participating in the demonstration project.

(B) REQUIREMENTS FOR CONSORTIUM.—

(i) IN GENERAL.—In the case of a consortium participating in the demonstration project under this section, the Secretary shall make payments for graduate medical education costs through 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.—

(I) IN 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 majority of the payments received under clause (i) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned 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.

(4) ALLOCATION OF PORTION OF MEDICARE CME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—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 during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the State 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).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs 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).

(5) DURATION.—A demonstration project under this subsection shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(6) EVALUATIONS AND REPORTS.—

(A) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(B) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(7) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(b) GOALS FOR PROJECTS.—The goals referred to in this subsection for a State or consortium participating in the demonstration project under this section are as follows:

(1) The training of an equal number of physician and nonphysician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

(c) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term "health care training consortium" means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term "primary care" means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term "rural area" has the meaning given such term in section 1886(d)(2)(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.—

(1) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 13951(m)) is amended by striking "10 percent" and inserting "20 percent".

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 13951(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(3) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 13951(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 3-year period beginning on the effective date of the withdrawal of such designation),".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) 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, 1996.

(4) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

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

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary not later than 30 days after the end of the contract year on the types of providers to whom the carrier made additional payments during the year for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers during the year; and".

(5) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting and retaining physicians to provide services in such areas.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), and shall include in the report such recommendations as the Secretary considers appropriate.

(6) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (4) shall apply to physicians' services furnished on or after January 1, 1996.

(b) DEVELOPMENT OF MODEL STATE SCOPE OF PRACTICE LAW.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(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 EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.
"Sec. 138. Cross references to other Acts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

SEC. 8514. DEMONSTRATION PROJECT TO INCREASE CHOICE IN RURAL AREAS.

The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall conduct a demonstration project to assess the advantages and disadvantages of requiring Medicare Choice organizations under part C of title XVIII of the Social Security Act (as added by section 8002(a)) to market Medicare Choice products in certain underserved areas which are near the standard service area for such products.

PART 2—MEDICARE SUBVENTION

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) PAYMENTS UNDER MEDICARE RISK CONTRACTS PROGRAM.—

(1) CURRENT PROGRAM.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k) Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other eligible organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other eligible organizations with risk sharing contracts under this section.".

(2) MEDICARE CHOICE PROGRAM.—Section 1855, as inserted by section 8002(a), by adding at the end the following new subsection:

"(h) PAYMENTS TO MILITARY PROGRAM.—Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered a Medicare Choice organization under this part, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other Medicare Choice organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other Medicare Choice organizations with contracts in effect under this part.".

(b) TEMPORARY PROVISION FOR WAIVER OF PART B PREMIUM PENALTY.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(h) The premium increase required by subsection (b) shall not apply with respect to a person who is enrolled with a managed care plan that is established by the Secretary of Defense under chapter 55 of title 10, United States Code, and is recognized as an eligible organization pursuant to section 1855(h) or section 1876(k), if such person first enrolled in such plan prior to January 1, 1998.".

(c) PAYMENTS UNDER PART A OF MEDICARE.—Section 1814(c) (42 U.S.C. 1395f(c)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and 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.".

(d) PAYMENTS UNDER PART B OF MEDICARE.—Section 1835(d) (42 U.S.C. 1395n(d)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and 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.".

(e) CONFORMING AMENDMENTS TO THE THIRD PARTY COLLECTION PROGRAM FOR MILITARY MEDICAL FACILITIES.—(1) Section 1095(d) of title 10, United States Code, is amended—

(A) by striking "XVIII or"; and

(B) by striking "1395" and inserting "1396".

(2) Section 1095(h)(2) of such title is amended by inserting after "includes" the following: "plans administered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

Subtitle G—Other Provisions

SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "24-month", and

(2) by striking the second sentence.

SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b-14) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under—" and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "including the use of" and all that follows through "any additional measures".

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding "; or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the

medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION 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 which 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.

(c) DEFINITIONS.—In this section—

(1) the term "approved device" means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—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.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

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

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(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.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Commission To Prepare For The 21st Century (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with national recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) ANALYSES AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission is charged with long-term strategic planning (for years after 2010) for the medicare program. The Commission shall—

(A) review long-term problems and opportunities facing the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(B) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled,

(ii) overall trends in national health care costs,

(iii) the number of Americans without health insurance,

(iv) the impact of its recommendations on the private sector and on the medicaid program;

(C) consider a range of program improvements, including measures to—

(i) reduce waste, fraud, and abuse,

(ii) improve program efficiency,

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive care and primary care services,

(v) improve beneficiary cost consciousness, including an analysis of proposals that would structure medicare from a defined benefits program to a defined contribution program and other means, and

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice:

(D) prepare findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be made for seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(F) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) DEFINITION OF MEDICARE TRUST FUNDS.—For purposes of this subsection, the term "medicare trust funds" means the Federal

Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 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. 7163. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearing, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 7164. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—ALl members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) PRIVATE CITIZENS OF THE UNITED STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission, to the extent funds are available therefor.

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7165. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 7702(b).

SEC. 7166. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.

TITLE IX—WELFARE REFORM

SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Temporary Employment Assistance

SEC. 9101. STATE PLAN.

(a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part A and inserting the following:

"PART A—TEMPORARY EMPLOYMENT ASSISTANCE

"SEC. 400. APPROPRIATION.

"For the purpose of providing assistance to families with needy children and assisting parents of children in such families to obtain and retain private sector work to the extent possible, and public sector or volunteer work if necessary, through the Work First Employment Block Grant program (hereafter in this title referred to as the 'Work First program'), there is hereby authorized to be appropriated, and is hereby appropriated, for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have approved State plans for temporary employment assistance.

"Subpart 1—State Plans for Temporary Employment Assistance

"SEC. 401. ELEMENTS OF STATE PLANS.

"A State plan for temporary employment assistance shall provide a description of the State program which carries out the purpose described in section 400 and shall meet the requirements of the following sections of this subpart.

"SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOYMENT ASSISTANCE.

"(a) IN GENERAL.—The State plan shall provide that any family—

"(1) with 1 or more children (or any expectant family, at the option of the State), defined as needy by the State; and

"(2) which fulfills the conditions set forth in subsection (b),

shall be eligible for cash assistance under the plan, except as otherwise provided under this part.

"(b) INDIVIDUAL RESPONSIBILITY PLAN.—The State plan shall provide that not later than 30 days after the approval of the application for temporary employment assistance, a parent qualifying for assistance shall execute an individual responsibility plan as described in section 403. If a child otherwise eligible for assistance under this part is residing with a relative other than a parent, the State plan may require the relative to execute such a plan as a condition of the family receiving such assistance.

"(c) LIMITATIONS ON ELIGIBILITY.—

"(1) LENGTH OF TIME.—

"(A) IN GENERAL.—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 years (or 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.

"(B) HARDSHIP EXCEPTION.—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) at the option of the State, the family includes an individual working 20 hours per week (or more, at the option of the State);

"(ii) the family resides in an area with an unemployment rate exceeding 8 percent; or

"(iii) 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 the parent—

"(i) is under age 18 (or age 19, at the option of the State); and

"(ii) is making satisfactory progress while attending high school or an alternative technical preparation school.

"(D) EXCEPTION FOR INDIVIDUALS EXEMPT 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 1 or each of the parents—

"(i) is seriously ill, incapacitated, or of advanced age;

"(ii)(I) except for a child described in subclause (II), is responsible for a child under age 1 year (or age 6 months, at the option of the State), or

"(II) in the case of a 2nd or subsequent child born during such period, is responsible for a child under age 3 months;

"(iii) is pregnant in the 3rd trimester; or

"(iv) is caring for a family member who is ill or incapacitated.

"(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 such child has not attained such age.

"(F) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that if a family is no longer eligible for cash assistance under the plan due to the imposition of the 60-month period under subparagraph (A) or due to the imposition of a penalty under subparagraph (A)(ii) or (B)(ii) of section 403(e)(1)—

"(i) 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;

"(ii) for purposes of determining the amount of assistance under any other Federal or federally assisted program based on need, such family shall continue to be considered receiving such cash assistance; and

"(iii) the State may, at the option of the State, after having assessed the needs of the child or children of the family, provide for such needs with a voucher for such family—

"(I) determined on the same basis as the State would provide assistance under the State plan to such a family with 1 less individual.

"(II) designed appropriately to pay third parties for shelter, goods, and services received 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 a plan of another State approved under this part, if a family in such category has moved to the State from the other State and has resided in the State for less than 12 months.

"(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 any period with respect to which such individual is receiving old-age assistance under the State plan approved under section 102 of title 1 or supplemental security income under title XVI.

"(4) CHILDREN FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.—A child with respect to whom foster care maintenance payments or adoption assistance payments are made 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 of such child for temporary employment assistance.

"(5) 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.—The State plan shall provide that no assistance will 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 that are funded under this part, 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.

"(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 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.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of assistance under the plan, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(I) is described in clause (i) or (ii) of subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the recipient is within such officer's official duties.

"(d) DETERMINATION OF ELIGIBILITY.—

"(1) DETERMINATION OF NEED.—The State plan shall provide that the State agency take into consideration any income and resources of any individual the State determines should be considered in determining the need of the child or relative claiming temporary employment assistance, subject to section 407.

"(2) RESOURCE AND INCOME DETERMINATION.—In determining the total resources and income of the family of any needy child, the State plan shall provide the following:

"(A) RESOURCES.—The State's resource limit, including a description of the policy determined by the State regarding any exclusion allowed for vehicles owned by family members, resources set aside for future needs of a child, individual development accounts, or other policies established by the State to encourage savings.

"(B) FAMILY INCOME.—The extent to which earned or unearned income is disregarded in determining eligibility for, and amount of, assistance.

"(C) CHILD SUPPORT.—The State's policy, if any, for determining the extent to which child support received in excess of $50 per month on behalf of a member of the family is disregarded in determining eligibility for, and the amount of, assistance.

"(D) CHILD'S EARNINGS.—The treatment of earnings of a child living in the home.

"(E) EARNED INCOME TAX CREDIT.—The State agency shall disregard any refund of Federal income taxes made to a family receiving temporary employment assistance by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

"(3) VERIFICATION SYSTEM.—The State plan shall provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137.

"SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.

"(a) ASSESSMENT.—The State agency responsible for administering the State plan shall make an initial assessment of the skills, prior work experience, and employability of each applicant for, or recipient of, assistance under the State plan who—

"(1) has attained 18 years of age; or

"(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

"(b) INDIVIDUAL RESPONSIBILITY PLANS.—

"(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

"(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State plan approved under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

"(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

"(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

"(D) may require that the individual enter the State program established under part F, if the caseworker determines that the individual will need education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector;

"(E) shall provide that the individual must—

"(i) assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance; and

"(ii) cooperate with the State—

"(I) in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and

"(II) in obtaining support payments for the individual and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due the individual or the child,

unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf assistance is claimed.

"(F) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

"(G) shall describe what services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

"(H) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

"(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

"(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of assistance under the State plan approved under this part; or

"(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

"(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State plan approved under this part of all available services under the State plan for which they are eligible.

"(d) 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 this part, who have not become employed in the private sector within 1 year after signing an individual responsibility plan, in the first available slot in the State program established under part F, except as provided in paragraph (2).

"(2) EXCEPTIONS.—A state may not be required to place a recipient of such assistance in the State program established under part F if the recipient—

"(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.

"(e) PENALTIES.—

"(1) 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:

"(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—

"(i) 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 1 of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (other than by reason of conduct described in paragraph (2)) shall be reduced by—

"(I) 33 percent for the 1st such act of noncompliance; or

"(II) 66 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 1 calendar month 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—

"(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 first 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, 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—

"(1) the composition of the unit for which assistance will be provided;

"(2) a standard, expressed in money amounts, to be used in determining the need of applicants and recipients;

"(3) a standard, expressed in money amounts, to be used in determining the amount of the assistance payment; and

"(4) the methodology to be used in determining the payment amount received by assistance units.

"(b) LEVEL OF ASSISTANCE.—Except as otherwise provided in this title, the State plan shall provide that—

"(1) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

"(2) families of similar composition with similar needs and circumstances shall be treated similarly.

"(c) CORRECTION OF PAYMENTS.—The State plan shall provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of assistance under such plan, including the request for Federal tax refund intercepts as provided under section 416.

"(d) OPTIONAL VOLUNTARY DIVERSION PROGRAM.—The State plan shall, at the option of the State, and in such part or parts of the State as the State may select, provide that—

"(1) upon the recommendation of the caseworker who is handling the case of a family eligible for assistance under the State plan, the State shall, in lieu of any other assistance under the State plan to the family during a time period of not more than 3 months, make a lump-sum payment to the family for the time period in an amount not to exceed—

"(A) the value of the monthly benefits that would otherwise be provided to the family under the State plan; multiplied by

"(B) the number of months in the time period;

"(2) a lump-sum payment pursuant to subparagraph (A) shall not be made more than once to any family; and

"(3) if, during a time period for which the State has made a lump-sum payment to a family pursuant to subparagraph (A), the family applies for and (but for the lump-sum payment) would be eligible under the State plan for a monthly benefit that is greater than the value of the monthly benefit which would have been provided to the family under the State plan at the time of the calculation of the lump sum payment, then, notwithstanding subparagraph (A), the State shall, for that part of the time period that remains after the family becomes eligible for the greater monthly benefit, provide monthly benefits to the family in an amount not to exceed—

"(A) the amount by which the value of the greater monthly benefit exceeds the value of the former monthly benefit, multiplied by the number of months in the time period; divided by

"(B) the whole number of months remaining in the time period.".

"SEC. 405. OTHER PROGRAMS.

"(a) WORK FIRST PROGRAM; WORKFARE OR JOB PLACEMENT VOUCHER PROGRAM.—The State plan shall provide that the State has in effect and operation—

"(1) a work first program that meets the requirements of part F; and

"(2) a workfare program that meets the requirements of part G, or a job placement voucher program that meets the requirements of part H, but not both.

"(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 G, or a 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 prohibited from participating 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) PROVISION OF CASE MANAGEMENT SERVICES.—The State plan shall provide that the State shall provide to participants in such programs such case management services as are necessary to ensure the integrated provision of benefits and services under such programs.

"(d) STATE CHILD SUPPORT AGENCY.—The State plan shall—

"(1) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

"(2) provide that the State agency administering the plan approved under this part shall be responsible for assuring that—

"(A) the benefits and services provided under plans approved under this part and part D are furnished in an integrated manner, including coordination of intake procedures with the agency administering the plan approved under part D;

"(B) all applicants for, and recipients of, temporary employment assistance are encouraged, assisted, and required (as provided under section 403(b)(1)(E)(ii)) to cooperate in the establishment and enforcement of paternity and child support obligations and are notified about the services available under the State plan approved under part D; and

"(C) procedures require referral of paternity and child support enforcement cases to the agency administering the plan approved under part D not later than 10 days after the application for temporary employment assistance; and

"(3) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency established pursuant to part D of the furnishing of temporary employment assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out-of-wedlock without regard to whether the paternity of such child has been established).

"(e) CHILD WELFARE SERVICES AND FOSTER CARE AND ADOPTION ASSISTANCE.—The State plan shall provide that the State has in effect—

"(1) a State plan for child welfare services approved under part B; and

"(2) a State plan for foster care and adoption assistance approved under part E,

and operates such plans in substantial compliance with the requirements of such parts.

"(f) REPORT OF CHILD ABUSE, ETC.—The State plan shall provide that the State agency will—

"(1) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving assistance under the State plan under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(2) provide such information with respect to a situation described in paragraph (1) as the State agency may have.

"(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS OF STATE.—The State plan shall consider and address the needs of rural areas in the State to ensure that families in such areas receive assistance to become self-sufficient.

"(h) FAMILY PRESERVATION.—

"(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

"(A) to encourage fathers to stay home and be a part of the family:

"(B) to keep families together to the extent possible: and

"(C) except to the extent provided in paragraph (2). to treat 2-parent families and 1-parent families equally with respect to eligibility for assistance.

"(2) MAINTENANCE OF TREATMENT.—The State may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than such limitations in effect in the State plan in fiscal year 1995.

"SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

"(a) STATEWIDE PLAN.—The State plan shall be in effect in all political subdivisions of the State. and. if administered by the 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.

"(c) FINANCIAL PARTICIPATION.—The State plan shall provide for financial participation by the State in the same manner and amount as such State participates under title XIX. except that with respect to the sums 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 make application for temporary employment assistance shall have opportunity to do so. and that such assistance be furnished with reasonable promptness to all eligible individuals.

"(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 management 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 and recipients of assistance; and

"(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 a State plan which fulfills the requirements under subpart 1 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.

"SEC. 412. COMPLIANCE.

In the case of any State plan for temporary employment assistance which has been approved under section 411. if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan. finds that in the administration of the plan there is a failure to comply substantially with any provision required by subpart 1 to be included in the plan, the Secretary shall notify such State agency that further payments will not be made to the State (or in the Secretary's discretion. that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until the Secretary is so satisfied the Secretary shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"SEC. 413. PAYMENTS TO STATES.

"(a) COMPUTATION OF AMOUNT.—Subject to section 412, from the sums appropriated therefor. the Secretary of the Treasury shall pay to each State which has an approved plan for temporary employment assistance, for each quarter. beginning with the quarter commencing October 1, 1996. an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State under such plan.

"(b) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

"(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on—

"(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection 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;

"(B) records showing the number of needy children in the State; and

"(C) such other information as the Secretary may find necessary.

"(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services—

"(A) reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter;

"(B) reduced by a sum equivalent to the pro rata share to which the Federal Government is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to temporary employment assistance furnished under the State plan: and

"(C) reduced by such amount as is necessary to provide the appropriate reimbursement to the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by the State pursuant to such section,

except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

"(c) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to 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. 414. QUALITY ASSURANCE, DATA COLLECTION, AND REPORTING SYSTEM.

"(a) QUALITY ASSURANCE.—

"(1) IN GENERAL.—Under the State plan, a quality assurance system shall be developed based upon a collaborative effort involving the Secretary, the State, the political subdivisions of the State, and assistance recipients. and shall include quantifiable program outcomes related to self sufficiency in the categories of welfare-to-work, payment accuracy. and child support.

"(2) MODIFICATIONS TO SYSTEM.—As deemed necessary. but not more often than every 2 years. the Secretary, in consultation with the State, the political subdivisions of the State. and assistance recipients, shall make appropriate changes in the design and administration of the quality assurance system. including changes in benchmarks, measures. and data collection or sampling procedures.

"(b) DATA COLLECTION AND REPORTING.—

"(1) IN GENERAL.—The State plan shall provide for a quarterly report to the Secretary regarding the data described in paragraphs (2) and (3) and such additional data needed for the quality assurance system. The data collection and reporting system under this subsection shall promote accountability, continuous improvement, and integrity in the State plans for temporary employment assistance and Work First.

"(2) DISAGGREGATED DATA.—The State shall collect the following data items on a monthly basis from disaggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

"(A) The age of adults and children (including pregnant women).

"(B) Marital or familial status of cases: married (2-parent family), widowed, divorced. separated, or never married; or child living with other adult relative.

"(C) The gender. race, educational attainment, work experience, disability status (whether the individual is seriously ill, incapacitated, or caring for a disabled or incapacitated child) of adults.

"(D) The amount of cash assistance and the amount and reason for any reduction in such assistance. Any other data necessary to determine the timeliness and accuracy of benefits and welfare diversions.

"(E) Whether any member of the family receives benefits under any of the following:

"(i) Any housing program.

"(ii) The food stamp program under the Food Stamp Act of 1977.

"(iii) The Head Start programs carried out under the Head Start Act.

"(iv) Any job training program.

"(F) The number of months since the most recent application for assistance under the plan.

"(G) The total number of months for which assistance has been provided to the families under the plan.

"(H) The employment status, hours worked, and earnings of individuals while receiving assistance, whether the case was

closed due to employment, and other data needed to meet the work performance rate.

"(I) Status in Work First and workfare, including the number of hours an individual participated and the component in which the individual participated.

"(J) The number of persons in the assistance unit and their relationship to the youngest child. Nonrecipients in the household and their relationship to the youngest child.

"(K) Citizenship status.

"(L) Shelter arrangement.

"(M) Unearned income (not including temporary employment assistance), such as child support, and assets.

"(N) The number of children who have a parent who is deceased, incapacitated, or unemployed.

"(O) Geographic location.

"(3) AGGREGATED DATA.—The State shall collect the following data items on a monthly basis from aggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

"(A) The number of adults receiving assistance.

"(B) The number of children receiving assistance.

"(C) The number of families receiving assistance.

"(D) The number of assistance units who had their grants reduced or terminated and the reason for the reduction or termination, including sanction, employment, and meeting the time limit for assistance).

"(E) The number of applications for assistance; the number approved and the number denied and the reason for denial.

"(4) LONGITUDINAL STUDIES.—The State shall submit selected data items for a cohort of individuals who are tracked over time. This longitudinal sample shall be used for selected data items described in paragraphs (2) and (3), as determined appropriate by the Secretary.

"(c) ADDITIONAL DATA.—The report required by subsection (b) for a fiscal year quarter shall also include the following:

"(1) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A statement of—

"(A) the percentage of the Federal funds paid to the State under this part for the fiscal year quarter that are used to cover administrative costs or overhead; and

"(B) the total amount of State funds that are used to cover such costs or overhead.

"(2) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—A statement of the total amount expended by the State during the fiscal year quarter on programs for needy families, with the amount spent on the program under this part, and the purposes for which such amount was spent, separately stated.

"(3) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The number of noncustodial parents in the State who participated in work activities during the fiscal year quarter.

"(4) REPORT ON CHILD SUPPORT COLLECTED.—The total amount of child support collected by the State agency administering the State plan under part D on behalf of a family receiving assistance under this part.

"(5) REPORT ON CHILD CARE.—The total amount expended by the State for child care under this part, along with a description of the types of child care provided, such as child care provided in the case of a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, or in the case of a family that is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

"(6) REPORT ON TRANSITIONAL SERVICES.—The total amount expended by the State for providing transitional services to a family 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.

"(d) COLLECTION PROCEDURES.—The Secretary shall provide case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of plan performance.

"(e) VERIFICATION.—The Secretary shall develop and implement procedures for verifying the quality of the data submitted by the State, and shall provide technical assistance, funded by the compliance penalties imposed under section 412, if such data quality falls below acceptable standards.

"SEC. 415. COMPILATION AND REPORTING OF DATA.

"(a) CURRENT PROGRAMS.—The Secretary shall, on the basis of the Secretary's review of the reports received from the States under section 414, compile such data as the Secretary believes necessary, and from time to time, publish the findings as to the effectiveness of the programs developed and administered by the States under this part. The Secretary shall annually report to the Congress on the programs developed and administered by each State under this part.

"(b) RESEARCH, DEMONSTRATION AND EVALUATION.—Of the amount specified under section 413(a), an amount equal to 0.25 percent is authorized to be expended by the Secretary to support the following types of research, demonstrations, and evaluations:

"(1) STATE-INITIATED RESEARCH.—States may apply for grants to cover 90 percent of the costs of self-evaluations of programs under State plans approved under this part.

"(2) DEMONSTRATIONS.—

"(A) IN GENERAL.—The Secretary may implement and evaluate demonstrations of 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 with respect to temporary employment assistance clients under State plans; and

"(iii) foster the development of child care.

"(B) ADDITIONAL PARAMETERS.—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) should test stategies in multiple States and types of communities.

"(3) FEDERAL EVALUATIONS.—

"(A) IN GENERAL.—The Secretary shall conduct research on the effects, benefits, and costs of different approaches to operating welfare programs, including an implementation study based on a representative sample of States and localities, documenting what policies were adopted, how such policies were implemented, the types and mix of services provided, and other such factors as the Secretary deems appropriate.

"(B) RESEARCH ON RELATED ISSUES.—The Secretary shall also conduct research on issues related to the purposes of this part, such as strategies for moving welfare recipients into the workforce quickly, reducing teen pregnancies and out-of-wedlock births, and providing adequate child care.

"(C) STATE REIMBURSEMENT.—The Secretary may reimburse a State for any research-related costs incurred pursuant to research conducted under this paragraph.

"(D) USE OF RANDOM ASSIGNMENT.—Evaluations authorized under this paragraph should use random assignment to the maximum extent feasible and appropriate.

"(4) REGIONAL INFORMATION CENTERS.—

"(A) IN GENERAL.—The Secretary shall establish not less than 5, nor more than 7 regional information centers located at major research universities or consortiums of universities to ensure the effective implementation of welfare reform and the efficient dissemination of information about innovations, evaluation outcomes, and training initiatives.

"(B) CENTER RESPONSIBILITIES.—The Centers shall have the following functions:

"(i) Disseminate information about effective income support and related programs, along with suggestions for the replication of such 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 formulate and implement innovative programs and improvements in existing programs that help clients move off welfare and become productive citizens.

"(iv) Provide training as appropriate to staff of State agencies to enhance the ability 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 part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving temporary employment assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the

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. 1308(a)(1)) is amended—

(1) in subparagraph (F), by striking "or"; and

(2) by striking subparagraph (G) and inserting the following:

"(G) $82,000,000 with respect to each of fiscal years 1989 through 1995, or

"(H) $102,500,000 with respect to the fiscal year 1996 and each fiscal year thereafter;".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) 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)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(g) COLLECTION OF OVERPAYMENTS UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 416 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(2) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 416, 464, or 1137 of the Social Security Act".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection (a), the State shall not be regarded as failing to comply with the requirements of such amendment before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of 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. 9201. TRANSITIONAL MEDICAID BENEFITS.

(a) STATE OPTION OF EXTENSION OF MEDICAID ENROLLMENT FOR FORMER AFDC RECIPIENTS FOR 1 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, offer to each such family the option of extending coverage under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions as 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)(ii)—

(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"; and

(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 subsection (a) 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. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PROVIDED TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by the amendment made 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 this title (as in effect before the effective date of title IX of the Omnibus Budget Reconciliation Act of 1995) is terminated, in the notice of termination of benefits.".

(b) FOOD STAMPS.—Section 11(e) 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:

"(26) 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) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide that the State shall provide notice of the existence and availability of the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to each individual applying for medical assistance under the State plan and to each individual whose eligibility for medical assistance under the State plan is terminated.".

SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT AND DEPENDENT CARE TAX CREDIT TO BE INCLUDED ON W-4 FORM.

(a) IN GENERAL.—Section 11114 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 new sentence: "Such means shall include printing a notice of the availability of such credits on the forms used by employees to determine the proper number of withholding exemptions under chapter 24 of such Code."

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Section 3507 of the Internal Revenue Code of 1986 (relating to the advance payment of the earned income tax credit) is amended by adding at the end the following:

"(g) STATE DEMONSTRATIONS.—

"(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) 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 Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding 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.—

"(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1996, and before January 1, 2000.

"(ii) 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 reporting requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (5)(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 other State or Federal 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),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned income tax credit,

"(F) commits the State to furnishing to each participating resident by January 31 of each year a written statement showing—

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat any advance earned income payments as described in paragraph (5) and any repayments of excessive advance earned income payments as described in paragraph (6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1996.

"(4) 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 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 '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 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.

"(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(A) IN GENERAL.—For purposes of this title, advance earned income payments during any calendar quarter—

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of—

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding),

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) IF ADVANCE 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)(ii) (without regard to paragraph (6)(A)), each such 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.

"(6) 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 section, 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) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of—

"(I) 4 percent 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) REPAYMENT CALENDAR QUARTER.—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 earned income payment is made.

"(7) 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) makes 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 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.".

(b) 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—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file Federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) 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.

(d) AUTHORIZATION OF APPROPRIATIONS.—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 and the Secretary of Health and Human Services a total of $1,400,000 for fiscal years 1997 through 2000.

Subtitle C—Work First

SEC. 9301. WORK FIRST PROGRAM.

(a) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part F and inserting the following:

"Part F—Work First Program

"SEC. 481. STATE ROLE.

"(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

"(1) 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.

"(2) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved under part A with the private sector 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.

"(3) 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.

"(4) FORMS OF ASSISTANCE.—The State shall provide assistance to participants in the program in the form of education, training, job placement services (including vouchers for job placement services), work supplementation programs, temporary subsidized job creation, job counseling, assistance in establishing microenterprises, or other services to provide individuals with the support and skills necessary to obtain and keep employment in the private sector.

"(5) 2-YEAR LIMITATION ON PARTICIPATION.—The program shall comply with section 487(b).

"(6) AGREEMENTS OF MUTUAL RESPONSIBILITY.—

"(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 a full-time unsubsidized job. The agreement should detail the education, training, or skills that the individual will be receiving to obtain a full-time unsubsidized job, and the obligations of the individual.

"(B) HOURS OF PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

"(i) not fewer than 20 hours per week during fiscal years 1997 and 1998;

"(ii) not fewer than 25 hours per week during fiscal year 1999; and

"(iii) not fewer than 30 hours per week thereafter.

"(7) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

"(8) 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 employee who has been terminated with a program participant; or

"(C) the replacement of an individual who is on layoff from the same position given to a progrm participant or any equivalent position.

"(b) ANNUAL REPORTS.—

"(1) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under section 488(c).

"(2) 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. 482. REVAMPED JOBS PROGRAM.

"A State that establishes a program under this part may operate a program similar to the program known as the 'GAIN Program' that has been operated by Riverside County, California, under Federal law in effect immediately before the date this part first applies to the State of California.

"SEC. 483. USE OF PLACEMENT COMPANIES.

"(a) IN GENERAL.—A State that establishes a program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance.

"(b) REQUIRED CONTRACT TERMS.—Each contract entered into under this section with a company shall meet the following requirements:

"(1) PROVISION OF JOB READINESS AND SUPPORT SERVICES.—The contract shall require the company to provide, to any program participant who presents to the company a voucher issued under subsection (d) intensive personalized support and job readiness services designed to prepare the individual for employment and ensure the continued success of the individual in employment.

"(2) PAYMENTS.—

"(A) IN GENERAL.—The contract shall provide for payments to be made to the company with respect to each program participant who presents to the company a voucher issued under subsection (d).

"(B) STRUCTURE.—The contract shall provide for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid after the company has placed the participant in a position of full-time employment and the participant has been employed in the position for such period of not less than 5 months as the State deems appropriate.

"(c) COMPETITIVE BIDDING REQUIRED.—Contracts 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 placement companies under this section, indicating that the participant is eligible for the services of such a company.

"SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

"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.

"SEC. 485. MICROENTERPRISE.

"(a) GRANTS AND LOANS TO NONPROFIT ORGANIZATIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE, TRAINING, AND CREDIT TO LOW INCOME ENTREPRENEURS.—A State that establishes a program under this part may make grants and loans to nonprofit organizations to provide technical assistance, training, and credit to low income entrepreneurs for the purpose of establishing microenterprises.

"(b) MICROENTERPRISE DEFINED.—For purposes of this subsection, the term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"SEC. 486. WORK SUPPLEMENTATION PROGRAM.

"(a) IN GENERAL.—A State that establishes a program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable under the State plan approved under part A to participants in the program and use the sums instead for the purpose of providing and subsidizing jobs for the participants (as described in subsection (c)(3)(A) and (B)), as an alternative to providing such assistance to the participants.

"(b) STATE FLEXIBILITY.—

"(1) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this section and section 484 (as in effect immediately before the date this part first applies to the State).

"(2) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(3) Notwithstanding any other provision of law, a State operating a work supplementation program under this section may provide that the need standards in effect in those areas of the State in which the program is in operation may be different from the need standards in effect in the areas in which the program is not in operation, and the State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(4) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of assistance provided under the plan to different categories of recipients (as determined under paragraph (3)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(5) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section as described in subsection (a), the State may use a sampling methodology.

"(6) Notwithstanding any other provision of law, a State operating a work supplementation program under this section, may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c) RULES RELATING TO SUPPLEMENTED JOBS.—

"(1) 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 (2)) shall take a supplemented job (as defined in paragraph (3)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for temporary employment assistance under part A except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for assistance under an approved State plan if the State did not have a work supplementation program in effect.

"(3) For purposes of this subsection, a supplemented job is—

"(A) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(B) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by the State or local agency.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(d) COST LIMITATION.—The amount of the Federal payment to a State under section 413 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in the State under this section had received the maximum amount of assistance providable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for the lesser of—

"(1) 9 months; or

"(2) the number of months in which the individual was employed in the program.

"(e) RULES OF INTERPRETATION.—

"(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 that an eligible individual filling a job position provided by another entity under the program be provided employee status by the entity during the first 13 weeks the individual fills the position.

"(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) 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 as the individual) who would be eligible for assistance under the State plan approved under part A if the State did not have a work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"SEC. 487. PARTICIPATION RULES.

"(a) IN GENERAL.—Except as provided in subsection (b), a State that establishes a program under this part may require any individual receiving assistance under the State plan approved under part A to participate in the program.

"(b) 2-YEAR LIMITATION ON PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate in a State program established under this part if the individual has participated in the State program established under this part for 24 months after the date the individual first signed an agreement of mutual responsibility under this part, excluding any month during which the individual worked for an average of at least 25 hours per week in a private sector job.

"(2) AUTHORITY TO ALLOW REPEAT PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii) of this subparagraph, the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed—

"(I) 10 percent of the total number of individuals who participated in the State program established under this part or the State program established under part H during the immediately preceding program year; or

"(II) in the case of fiscal year 2004 or any succeeding fiscal year, 15 percent of such total number of individuals.

"(ii) AUTHORITY TO INCREASE LIMITATION.—

"(I) PETITION.—A State may request the Secretary to increase to not more than 15 percent the percentage limitation imposed by clause (i)(I) for a fiscal year before fiscal year 2004.

"(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"SEC. 488. CASELOAD PARTICIPATION RATES; PERFORMANCE MEASURES.

"(a) PARTICIPATION RATES.—

"(1) REQUIREMENT.—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:

"Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

"(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, during the fiscal year, participate in the State program established under this part or (if applicable) part G or H; divided by

"(ii) the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility plan is in effect 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 such assistance, for purposes of subparagraph (A).

"(3) STATE COMPLIANCE REPORTS.—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.

"(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) for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(B) SECOND CONSECUTIVE FAILURE.—Notwithstanding subparagraph (A), if a State fails to achieve the participation rate required by paragraph (1) for 2 consecutive fiscal years, the Secretary may—

"(i) require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G; and

"(ii) reduce by 5 percent the amount otherwise payable to the State under section 413.

"(b) PERFORMANCE STANDARDS.—The Secretary shall 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.

"(c) PERFORMANCE-BASED MEASURES.—

"(1) ESTABLISHMENT.—The Secretary shall, by regulation, establish measures of the effectiveness of the State programs established under this part and under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(2) ANNUAL COMPLIANCE REPORTS.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under paragraph (1).

"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 first program that meets the requirements of section 481, the Secretary shall approve the plan.

"(2) AUTHORITY TO EXTEND APPROVAL DEADLINE.—The 60-day deadline established in paragraph (1) with respect to a State may be extended in accordance with an agreement between the Secretary and the State.

"(b) PERFORMANCE-BASED MEASURES.—The Secretary shall, by regulation, establish measures of the effectiveness of the State program established under this part and (if the State has established a program under part G) the State program established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(c) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(1) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by section 488 for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(2) SECOND CONSECUTIVE FAILURE.—Notwithstanding paragraph (1), if the State has failed to achieve the participation rates required by section 488 for 2 consecutive fiscal years, the Secretary may require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G.

"Part G—Workfare Program

"SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.

"(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 this part, unless the State has established a job placement voucher program under part H.

"(b) OBJECTIVE.—The objective of the workfare 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.

"(c) CASE MANAGEMENT TEAMS.—The State shall assign to each program participant a case management team that shall meet with the participant and assist the participant to choose the most suitable workfare job under subsection (e), (f), or (g) and to eventually obtain a full-time unsubsidized paid job.

"(d) PROVISION OF JOBS.—The State 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.—Except as provided in 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 fiscal years 1997 and 1998, 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 35 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 no 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.

"(3) WAGES NOT CONSIDERED EARNED INCOME.—Wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law.

"(4) COMMUNITY SERVICE 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 employer 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 similar to the program operated by the State of Oregon, which is known as 'JOBS Plus'.

"(g) WORK SUPPLEMENTATION PROGRAM.—

"(1) IN GENERAL.—A State that establishes a workfare program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as a community service minimum wage and use the sums instead for the purpose of providing and subsidizing private sector jobs for the participants.

"(2) EMPLOYER AGREEMENT.—An employer who provides a private sector job to a participant under paragraph (1) shall agree to provide to the participant an amount in wages equal to the poverty threshold for a family of three.

"(h) JOB SEARCH REQUIREMENT.—The State shall require each participant to spend a minimum of 5 hours per week on activities related to securing unsubsidized full-time employment in the private sector.

"(i) DURATION OF PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate for more than 2 years in a workfare program under this part.

"(2) AUTHORITY TO ALLOW REPEATED PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed 10 percent of the total number of individuals who participated in the program during the immediately preceding program year.

"(ii) AUTHORITY TO INCREASE LIMITATION.—

"(I) PETITION.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

"(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"(j) 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 the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

"(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—A program participant may not receive more than 3 community service jobs under the program.

"Part H—Job Placement Voucher Program

"SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.

"A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

"(1) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

"(2) An employer who receives a voucher issued under the program from an individual may redeem the voucher at any time after the individual has been employed by the employer for 6 months, unless another employee of the employer was displaced by the employment of the individual.

"(3) Upon presentation of a voucher by an employer to the State agency responsible for the administration of the program, the State agency 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.".

(c) FUNDING.—Section 413(a), as added by section 9101(a) of this Act, is amended—

(1) by striking "Subject to" and inserting the following:

"(1) IN GENERAL.—Subject to"; and

(2) by inserting after and below the end the following:

"(2) WORK FIRST AND OTHER PROGRAMS.—(A) Each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such paragraph) of its expenditures to carry out such programs (subject to limitations prescribed by or pursuant to such parts or this part on expenditures that may be included for purposes of determining payment under paragraph (3)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under subparagraph (B) with respect to the State.

"(B) The limitation determined under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (C) for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding 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) $1,900,000,000 for fiscal year 1999;

"(IV) $2,500,000,000 for fiscal year 2000; and

"(V) $3,200,000,000 for fiscal year 2001; and

"(VI) $4,700,000,000 for fiscal year 2002; and

"(VII) the amount determined under clause (ii) for fiscal year 2003 and each succeeding fiscal year.

"(ii) The amount determined under this clause for a 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—

"(aa) 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

"(bb) 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 whom the Secretary estimates will participate in programs operated under part F, G, or H during the fiscal year bears to the total number of individuals who participated in such programs during such preceding fiscal year.

"(D) For purposes of this paragraph, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with assistance provided under the State plan approved under this part.

"(E) For purposes of subparagraph (D), the term 'dependent child' means a needy child (i) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (ii) who is (I) under the age of eighteen, or (II) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).

"(F) For purposes of subparagraph (E), the term 'relative with whom any dependent child is living' means the individual who is one of the relatives specified in subparagraph (E) and with whom such child is living (within the meaning of such subsection) in a

place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

"(3)(A) In lieu of any payment under paragraph (1) therefor, the Secretary shall pay to each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H, with respect to expenditures by the State to carry out such programs, an amount equal to—

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then 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)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services; and

"(II) 60 percent or the Federal medical assistance percentage (as defined in the last sentence of section 1118), whichever is the greater, in the case of expenditures made by a State in operating such programs for such 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)(i), the State's expenditures for the costs of operating such programs may be in cash or in kind, fairly evaluated.

"(C) Not more than 10 percent of the amount payable to a State under this paragraph for a quarter may be for expenditures made during the quarter with respect to 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 the following:

"(4) SECRETARY'S SPECIAL ADJUSTMENT FUND.—(A) There shall be available to the Secretary from the amount appropriated for payments under paragraph (2) for States' programs under parts F and G for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for such programs.

"(B) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its program under part F (and, in fiscal years after 1997) its program under part G for the following fiscal year. 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 claims 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 Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

"(C) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under paragraph (2), and upon a determination by the Secretary that (and 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. That 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 amount by which all States' limitations under paragraph (2) of this subsection and section 2008 for a fiscal year exceeded the sum of the Federal payments under such provisons 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.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1115(b)(2)(A) (42 U.S.C. 1315(b)(2)(A)) is amended by striking ", and 402(a)(19) (relating to the work incentive program)".

(2) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking "or, in the case of part A of title IV, section 403(k)"; and

(B) in subsection (d), by striking "(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)".

(3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended—

(A) by striking "402(a)(37), 406(h), or"; and

(B) by striking "482(e)(6)" and inserting "486(f)".

(4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1)) is amended by striking "482(e)(6)" and inserting "486(f)".

(f) INTENT OF THE CONGRESS.—The Congress intends for State activities under section 484 of the Social Security Act (as added by the amendment made by section 9301(a) of this Act) to emphasize the use of the funds that would otherwise be used to provide individuals with assistance under part A of title IV of the Social Security Act and with food stamp benefits under the Food Stamp Act of 1977, to subsidize the wages of such individuals in temporary jobs.

(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that States should target individuals who have not attained 25 years of age for participation in the program established by the State under part F of title IV of the Social Security Act (as added by the amendment made by section 9301(a) of this section) 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 subtitle.

SEC. 9303. APPLICABILITY TO STATES.

(a) STATE OPTION TO ACCELERATE APPLICABILITY.—If a State formally notifies the Secretary of Health and Human Services that the State desires to accelerate the applicability to the State of the amendments made by this subtitle, the amendments shall apply to the State on and after such earlier date as the State may select.

(b) STATE OPTION TO DELAY APPLICABILITY UNTIL WAIVERS EXPIRE.—The amendments made by this subtitle shall not apply to a State with respect to which there is in effect a waiver issued under section 1115 of the Social Security Act for the State program established under part F of title IV of such Act, until the waiver expires, if the State formally notifies the Secretary of Health and Human Services that the State desires to so delay such effective date.

(c) AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES TO DELAY APPLICABILITY TO A STATE.—If a State formally notifies the Secretary of Health and Human Services that the State desires to delay the applicability to the State of the amendments made by this title, the amendments shall apply to the State on and after any later date agreed upon by the Secretary and the State.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV-D PROGRAM CLIENTS

SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE LAW REQUIREMENTS.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

"(12) USE OF CENTRAL CASE REGISTRY AND CENTRALIZED COLLECTIONS UNIT.—Procedures under which—

"(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

"(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

"(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

"(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

"(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

"(ii) an agreement described in clause (i) becomes void whenever either party advises the State agency of an intent to vacate the agreement.".

(b) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) provide that such State will undertake—

"(A) to provide appropriate services under this part to—

"(i) each child with respect to whom an assignment is effective under section 403(b)(1)(E)(i), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

"(ii) each child not described in clause (i)—

"(I) with respect to whom an individual applies for such services; and

"(II) (on and after October 1, 1998) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

"(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A) unless the parties to the order which establishes the support obligation have opted, in

accordance with section 466(a)(12)(C), for an alternative payment procedure."; and

(2) in paragraph (6)—

(A) by striking subparagraph (A) and inserting the following:

"(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;";

(B) in subparagraph (B)—

(i) by inserting "on individuals not receiving assistance under part A" after "such services shall be imposed"; 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 central State registry maintained pursuant to section 454A(e)"; and

(C) in each of subparagraphs (B), (C), and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(ii) by striking the final comma and inserting a semicolon.

(c) CONFORMING AMENDMENTS.—

(1) 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)".

(2) Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking "information as to any application fees for such services and".

(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 "or (6)".

SEC. 9402. DISTRIBUTION OF PAYMENTS.

(a) DISTRIBUTIONS THROUGH STATE CHILD SUPPORT ENFORCEMENT AGENCY TO FORMER ASSISTANCE RECIPIENTS.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by striking section 402(a)(26) is effective." and inserting "section 403(b)(1)(E)(i) is effective, except as otherwise specifically provided in section 464 or 466(a)(3),"; and

(B) by striking "except that" and all that follows through the semicolon; and

(2) in subparagraph (B), by striking ", except" and all that follows through "medical assistance".

(b) DISTRIBUTION TO A FAMILY CURRENTLY RECEIVING TEMPORARY EMPLOYMENT ASSISTANCE.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a) (as so redesignated)—

(A) in the matter preceding paragraph (2), to read as follows:

"(a) IN THE CASE OF A FAMILY RECEIVING TEA.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;";

(B) in paragraph (4), by striking "or (B)" and all that follows through the period and inserting "; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family."; and

(3) by inserting after subsection (a) (as so redesignated) the following new subsection:

"(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAMILY RECEIVING TEA.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

"(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(5) fifth, any remainder shall be paid to the family.".

(c) DISTRIBUTION TO A FAMILY NOT RECEIVING TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

"(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RECEIVING TEA.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

"(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

"(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).".

* * * for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

"(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

"(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

"(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

"(I) 5 percentage points, in connection with Statewide paternity establishment; and

"(II) 10 percentage points, in connection with overall performance in child support enforcement.

"(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

"(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

"(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

"(5) RECYCLING OF INCENTIVE ADJUSTMENT.—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.

"(b) MEANING OF TERMS.—For purposes of this section—

"(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

"(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

"(B) the total number of children born out of wedlock in the State during such fiscal year; and

"(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

"(A) the percentage of cases requiring a child support order in which such an order was established;

"(B) the percentage of cases in which child support is being paid;

"(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 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 9411(a) of this Act, is amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

"increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.".

(c) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking "incentive payments" the first place it appears and inserting "incentive adjustments"; and

(2) by striking "any such incentive payments made to the State for such period" and inserting "any increases in Federal payments to the State resulting from such incentive adjustments".

(d) CALCULATION OF IV-D PATERNITY ESTABLISHMENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,".

(2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by striking "paternity establishment percentage" and inserting "IV-D paternity establishment percentage"; and

(ii) by striking "(or all States, as the case may be)";

(B) in subparagraph (A)(i), by striking "during the fiscal year";

(C) in subparagraph (A)(ii)(I), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(D) in subparagraph (A)(ii)(II), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(E) in subparagraph (A)(iii)—

(i) by striking "during the fiscal year"; and

(ii) by striking "and" at the end; and

(F) in the matter following subparagraph (A)—

(i) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(ii) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(iii) by striking "or (E)" the second place it appears.

(3) 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) in subparagraph (A), as redesignated, by striking "the percentage of children born out-of-wedlock in the State" and inserting "the percentage of children in the State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B), as redesignated—

(i) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(ii) by inserting "and securing support" before the period.

(e) REDUCTION OF PAYMENTS UNDER PART D OF TITLE IV.—

(1) NEW REQUIREMENTS.—Section 455 (42 U.S.C. 655) is amended by inserting after subsection (b) the following:

"(c)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

"(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV-D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

"(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(B) that, with respect to the succeeding fiscal year—

"(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

"(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

"(2) The reductions required under paragraph (1) shall be—

"(A) not less than 6 nor more than 8 percent, or

"(B) not less than 8 nor more than 12 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

"(C) not less than 12 nor more than 15 percent, if the finding is the third or a subsequent consecutive such finding.

"(3) For purposes of this subsection, section 405(d), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.".

(2) CONFORMING AMENDMENTS.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking "403(h)" each place such term appears and inserting "455(c)".

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking "403(h)" and inserting "455(c)".

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1997, except to the extent provided in subparagraph (B).

(B) Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program under this part, which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

"(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV-D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(c) to be applied to the State;

"(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

"(ii) of the adequacy of financial management of the State program, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(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 section.

SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes and timely case processing) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 9404(a) of this Act, 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 "; and"; and

(3) by adding after paragraph (25) the following:

"(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—(1) Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for 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 (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 454 the following new section:

"AUTOMATED DATA PROCESSING

"SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with 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 may specify relating to management of the program under this part, including—

"(1) controlling and accounting for use of Federal, State, 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 incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV-D paternity establishment percentage and overall performance in 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).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use 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, which—

"(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

"(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

"(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.

"(4) 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.

"(5) 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.".

(3) REGULATIONS.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.".

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 9404(a)(2) and 9414(b)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j) of this Act;".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(B) by striking "so much of"; and

(C) by striking "which the Secretary" and all that follows and inserting ", and"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

"(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

"(I) 80 percent, or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100-485) is repealed.

(d) ADDITIONAL PROVISIONS.—For additional provisions of section 454A, as added by subsection (a) of this section, see the amendments made by sections 9421, 9422(c), and 9433(d) 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 matter preceding paragraph (1) by striking "directly".

(b) STAFFING STUDIES.—

(1) SCOPE.—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 a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) FREQUENCY OF STUDIES.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) REPORT TO THE 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.

Section 452 (42 U.S.C. 652), as amended by section 9415(a)(3) of this Act, is amended by adding at the end the following new subsection:

"(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

"(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

"(B) research, demonstration, and special projects of regional or national 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 (including arrearages) collected in the preceding fiscal year on behalf of 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).".

SEC. 9418. 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 indented clauses:

"(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

"(II) 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) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (I) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(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 services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

"(1) families (or dependent children) receiving assistance under State plans approved under part A (or E); and

"(2) families not receiving such assistance.

"(b) The data referred to in subsection (a) are—

"(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

"(2) the number of such cases in which the service has been provided."; and

(2) in subsection (c), by striking "(a)(2)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 3—LOCATE AND CASE TRACKING

SEC. 9421. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 9415(a)(2) of this Act, is amended by adding at the end the following:

"(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system 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 State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

"(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

"(B) the date on which or circumstances under which the support obligation will terminate under such order;

"(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

"(D) the distribution of such amounts collected; and

"(E) the birth date of the child for whom the child support order is entered.

"(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, 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 matches with Federal, State, or local data sources;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

"(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnish to the Data Bank of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

"(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data 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. 9422. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a) and 9414(b) 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 the State agency, on and after October 1, 1998—

"(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

"(B) will have sufficient State staff (consisting of State employees), and (at State option) contractors reporting directly to the State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).".

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV (42 U.S.C. 651-669) is amended by adding after section 454A the following new section:

"CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

"SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(27), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

"(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

"(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 to section 454(4).

"(b) REQUIRED PROCEDURES.—The centralized collections 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 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 9415(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 DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections 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 wages (and other income)—

"(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 payment; and

"(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(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) UNDER CERTAIN ORDERS PREDATING CHANGE IN REQUIREMENT.—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 a judicial or administrative hearing.".

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)";

(B) in paragraph (5), by striking all that follows "administered by" and inserting "the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.";

(C) in paragraph (6)(A)(i)—

(i) by inserting ", in accordance with timetables established by the Secretary," after "must be required"; and

(ii) by striking "to the appropriate agency" and all that follows and inserting "to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(D) in paragraph (6)(A)(ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(E) in paragraph (6)(D)—

(i) by striking "employer who discharges" and inserting "employer who—(A) discharges";

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

"(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) DEFINITION OF TERMS.—The Secretary shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term "income" and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 9423(a)(2) of this Act, is amended by inserting after paragraph (7) the following:

"(8) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

"(A) for purposes relating to the use of motor vehicles; or

"(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.".

SEC. 9425. EXPANDED 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 the following:

", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support;

"(B) against whom such an obligation is sought; or

"(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 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 specified in subsection (a)"; and

(B) in paragraph (2), by inserting before the period ", or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))";

(3) in subsection (e)(1), by inserting before the period ", or by consumer reporting agencies".

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period "in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)".

(c) ACCESS TO CONSUMER REPORTS UNDER FAIR CREDIT REPORTING ACT.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking ", limited to" and inserting "to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to"; and

(B) by striking "employment, to a governmental agency" and inserting "employment, in the case of any other governmental agency)".

(2) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES AND CREDIT BUREAUS.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).".

(d) DISCLOSURE OF TAX RETURN INFORMATION.—(1) Section 6103(l)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking ", but only if" and all that follows and inserting a period.

(2) Section 6103(l)(8)(A) of the Internal Revenue Code of 1986 is amended by inserting "Federal," before "State or local".

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting "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 G, and for the other purposes

specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central 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), as specified by the Secretary, shall include sufficient information (including 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 established or modified, or are enforcing or seeking to establish, such an order.

"(i) DIRECTORY OF NEW HIRES.—

"(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 G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

"(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

"(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

"(2) EMPLOYER INFORMATION.—

"(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory established under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

"(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

"(i) automated or electronic transmission of such reports;

"(ii) transmission by regular mail; and

"(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

"(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

"(D) PAPERWORK REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

"(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

"(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(iii) Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

"(3) EMPLOYMENT SECURITY INFORMATION.—

"(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

"(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

"(j) DATA MATCHES AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data 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) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

"(i) the name, social security number, and birth date of each individual; and

"(ii) the employer identification number of each employer.

"(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

"(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less often than every 2 working days; and

"(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

"(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

"(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

"(B) disclose data in such registries to such State agencies,

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.

"(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, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

"(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data 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, compiling, or maintaining such data).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

"(m) 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.

"(n) 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.

"(o) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service section and disclosed by the Secretary in accordance with this section.".

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—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;".

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(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 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.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ": and"; and

(C) by adding after paragraph (9) the following new paragraph:

"(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.".

SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 9401(a) of this Act, is amended by inserting after paragraph (12) the following:

"(13) SOCIAL SECURITY NUMBERS REQUIRED.—Procedures requiring the recording of social security numbers—

"(A) of both parties on marriage licenses and divorce decrees; and

"(B) of both parents, on birth records and child support and paternity orders.".

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting "This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.".

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and 9426(a) of this Act, is amended inserting after paragraph (13) the following:

"(14) INTERSTATE ENFORCEMENT.—(A) ADOPTION OF UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

"(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

"(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

"(ii) in which interstate activity is required to enforce an order.

"(C) JURISDICTION TO MODIFY ORDERS.—The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) 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 exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(D) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

"(E) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required 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.".

SEC. 9432. 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 six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six 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 six-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(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:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If one 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 one court has issued a child support order, the order of that court must be recognized.

"(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If two or more courts have issued child support orders for the same obligor and child, and only one 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 two 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:

"(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. 9433. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: "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 adding 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 (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but 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), to take the following actions relating to establishment or enforcement of orders:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

"(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

"(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

"(C) SUBPOENAS.—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 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; and

"(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).

"(E) INCOME WITHHOLDING.—To order income withholding in accordance with subsection (a)(1) and (b) of section 466.

"(F) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 403(b)(1)(E)(i), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under 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.

"(G) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

"(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

"(I) unemployment compensation, workers' compensation, and other benefits;

"(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

"(III) lottery winnings;

"(ii) to attach and seize assets of the obligor held by financial institutions;

"(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

"(iv) to impose liens in accordance with paragraph (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 arrearages (subject to such conditions or restrictions as the State may provide).

"(I) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

"(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) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

"(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed 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 orders issued in such cases have statewide effect; and

"(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between 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) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking "(d) If" and inserting the following:

"(d) EXEMPTIONS FROM REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) NONEXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

"(A) subsection (a)(5) (concerning procedures for paternity establishment);

"(B) subsection (a)(10) (concerning modification of orders);

"(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

"(D) subsection (a)(13) (concerning recording of Social Security numbers);

"(E) subsection (a)(14) (concerning interstate enforcement); or

"(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).".

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by sections 9421 and 9422(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).".

CHAPTER 5—PATERNITY ESTABLISHMENT

SEC. 9441. SENSE OF THE CONGRESS.

It is the sense of the Congress that social services should be provided in hospitals to women who have become pregnant as a result of rape or incest.

SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES FOR NEW FATHERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), and 9431 of this Act, is amended by inserting after paragraph (14) the following:

"(15) Procedures for providing new fathers with positive parenting counseling that stresses the importance of paying child support in a timely manner, in accordance with regulations prescribed by the Secretary.".

SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) IN GENERAL.—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 inserting after paragraph (24) the following:

"(25) provide that the State agency administering the plan under this part—

"(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 403(b)(1)(E)(i) and 1912;

"(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

"(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

"(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

"(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

"(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

"(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

"(i) the name of the putative father (or fathers); and

"(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

"(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

"(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate)) will not later determine such individual not to be cooperating (or not to have good cause not to

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) in paragraph (1)(B), by inserting "(except as provided in paragraph (2))" after "to cooperate with the State";

(2) in subparagraphs (B) and (C) of paragraph (1) by striking ", unless" and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (5), 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 will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing 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(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

"(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

"(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

"(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate; and

"(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

"(i) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after the date of the enactment of this Act (or such earlier quarter as the State may select) for assistance under a State plan approved under part A of title IV of the Social Security Act or for medical assistance under a State plan approved under title XIX of such Act.

SEC. 9444. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1996, 69 percent;

"(B) for fiscal year 1997, 72 percent; and

"(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.".

(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 subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such 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.".

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking "(5)" and inserting the following:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—";

(2) in subparagraph (A)—

(A) by striking "(A)(i)" and inserting the following:

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN.—(i)"; and

(B) by indenting clauses (i) and (ii) so that the left margin of such clauses is 2 ems to the right of the left margin of paragraph (4);

(3) in subparagraph (B)—

(A) by striking "(B)" and inserting the following:

"(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)";

(B) in clause (i), as redesignated, by inserting before the period ", where such request is supported by a sworn statement (I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties, or (II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;";

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

"(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.";

(4) by striking subparagraphs (C) and (D) and inserting the following:

"(C) PATERNITY ACKNOWLEDGMENT.—(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

"(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. 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, 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, voluntary paternity establishment programs of hospitals and birth record agencies.

"(v) Such procedures must require the State and those required to establish paternity to use only the affidavit developed under 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.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

"(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

"(aa) attaining the age of majority; or

"(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.";

(5) by striking subparagraph (E) and inserting the following:

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.";

(6) by striking subparagraph (F) and inserting the following:

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

"(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

"(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy."; and

(7) by adding after subparagraph (H) the following new subparagraphs:

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth,

and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

"(L) WAIVER OF STATE DEBTS FOR COOPERATION.—At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

"(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security account number of each parent" before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

"(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

"(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

"(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;".

(b) ENHANCED FEDERAL MATCHING.—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 ", and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1997.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is 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.—The Commission shall develop a national child support guideline for consideration by the Congress that is based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 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;

(ii) 2 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

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—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, 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.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences 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 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) 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 and a final assessment of issues relating to such a proposed national child support guideline.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) PROCEDURES FOR MODIFICATION OF SUPPORT ORDERS.—

"(A)(i) Procedures under which—

"(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

"(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

"(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

"(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be established by the Secretary and provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.".

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—Section 6402(c) of the Internal Revenue Code of 1986 is amended by striking the 3rd sentence.

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—(1) Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) by striking "(a)" and inserting "(a) OFFSET AUTHORIZED.—";

(B) in paragraph (1)—

(i) 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

(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 (d)(3), in the case of past-due support assigned to a State pursuant to section 403(b)(1)(E)(i) or 471(a)(17); and

"(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.";

(D) in paragraph (3)—

(i) by striking "or (2)" each place it appears; and

(ii) in subparagraph (B), by striking "under paragraph (2)" and inserting "on account of past-due support described in paragraph (2)(B)".

(2) Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking "(b)(1)" and inserting "(b) REGULATIONS.—"; and

(B) by striking paragraph (2).

(3) Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), as" 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, 1999.

SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting "except as provided in paragraph (5)" after "collected";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) 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

(5) 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. 9463. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 (42 U.S.C. 659) is amended in the caption by inserting "INCOME WITHHOLDING," before "GARNISHMENT".

(2) Section 459(a) (42 U.S.C. 659(a)) is amended—

(A) by striking "(a)" and inserting "(a) CONSENT TO SUPPORT ENFORCEMENT.—

(B) by striking "section 207" and inserting "section 207 of this Act and 38 U.S.C. 5301"; and

(C) by striking all that follows "a private person." and inserting "to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.".

(3) Section 459(b) (42 U.S.C. 659(b)) is amended to read as follows:

"(b) 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 contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.".

(4) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking "responding to interrogatories pursuant to requirements imposed by section 461(b)(3)" and inserting "taking actions necessary to comply with the requirements of subsection (A) with regard to any individual"; and

(B) by striking "any of his duties" and all that follows and inserting "such duties.".

(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (b), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (b) (as added by paragraph (3) of this subsection) the following:

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS.—(1) The head of each agency subject to the requirements of this section shall—

"(A) designate an agent or agents to receive orders and accept service of process; and

"(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.".

(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:

"(2) 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 order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

"(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such 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 interrogatories, respond thereto.".

(7) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659) 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 or is served with process, as provided in this section, concerning amounts owed by an individual to more than one 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 the provisions of such section 466(b) and regulations thereunder; and

"(3) 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.".

(8) Section 459(e) (42 U.S.C. 659(e)) is amended by striking "(e)" and inserting the following:

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—".

(9) Section 459(f) (42 U.S.C. 659(f)) is amended by striking "(f)" and inserting the following:

"(f) RELIEF FROM LIABILITY.—(1)".

(10) Section 461(a) (42 U.S.C. 661(a)) is redesignated and relocated as section 459(g), and is amended—

(A) by striking "(g)" and inserting the following:

"(g) REGULATIONS.—"; and

(B) by striking "section 459" and inserting "this section".

(11) Section 462 (42 U.S.C. 662) 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) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), 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 such individual, whether such 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 (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); 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 such individual in carrying out duties associated with his employment; 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.".

(12) Section 462(g) (42 U.S.C. 662(g)) is redesignated and relocated as section 459(i) (42 U.S.C. 659(i)).

(13)(A) Section 462 (42 U.S.C. 662) is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 (42 U.S.C. 659) is amended by adding at the end the following:

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

(C) Subsections (a) through (e) of section 462 (42 U.S.C. 662), as amended by subparagraph (A) of this paragraph, are relocated and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subparagraph (B) of this paragraph, (42 U.S.C. 659(j)), and the left margin of each of such paragraphs (i) through (4) is indented 2 ems to the right of the left margin of subsection (i) (as added by paragraph (12) of this subsection).

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661), as amended by subsection (a) of this section, are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(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"; and

(C) by adding after subparagraph (C) the following new paragraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).";

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(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(d) of such title is amended—

(A) in the heading, by striking "to spouse" and inserting "to (or for benefit of)"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State central collections unit 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".

(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 a child support order against 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 the Social Security 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. 9464. 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.

(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 462 of the Social Security Act (42 U.S.C. 662).

(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, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

"(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 or an order of an administrative process established under State law 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 first sentence the following: "In the case of a spouse or former spouse who, pursuant to section 403(b)(1)(E)(i) of the Social Security Act, 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 or an order of an administrative process established under State law 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 satisy 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 satisy the amount of child support set forth in a court order or an order of an administrative process established under State law 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.".

SEC. 9465. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking "(4) Procedures" and inserting the following:

"(4) LIENS.—

"(A) IN GENERAL.—Procedures"; and

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

"(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

"(i) any person owed such arrears may place such a lien;

"(ii) the State agency administering the program under this part shall systematically place such liens:

"(iii) expedited methods are provided for—

"(I) ascertaining the amount of arrears;

"(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

"(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

"(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.".

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, and 9442 of this Act, is amended by inserting after paragraph (15) the following:

"(16) FRAUDULENT TRANSFERS.—Procedures under which—

"(A) the State has in effect—

"(i) the Uniform Fraudulent Conveyance Act of 1981,

"(ii) the Uniform Fraudulent Transfer Act of 1984, or

"(iii) 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

"(B) 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—

"(i) seek to void such transfer; or

"(ii) obtain a settlement in the best interests of the child support creditor.".

SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, and 9466 of this Act, is amended by inserting after paragraph (16) the following:

"(17) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, and professional and occupational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with

subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 9468. 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) 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 absent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent 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.".

SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by striking "(9) Procedures" and inserting the following:

"(9) LEGAL TREATMENT OF ARREARS.—

"(A) FINALITY.—Procedures";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by indenting each of such clauses 2 additional ems to the right; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

"(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.".

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, and 9467 of this Act, is amended by inserting after paragraph (17) the following:

"(18) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection 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 support has been assigned to the State).".

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—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 452 (42 U.S.C. 652), as amended by sections 9415(a)(3) and 9417 of this Act, is amended by adding at the end the following new subsection:

"(l) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—

"(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) 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, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 9471(b) of the Omnibus Budget Reconciliation Act of 1995.

"(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting "; and"; and

(C) by adding after paragraph (27) the following 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 464) for certifying to the Secretary, for purposes of the procedure under section 452(l) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an 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 documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(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.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), 9422(a), and 9471(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following:

"(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.".

SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and 9470(a) of this Act, is amended by inserting after paragraph (18) the following:

"(19) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

"(A) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(B) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(C) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(D) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

"(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

"(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.".

"(E) Any person required to make a payment in respect of a decedent shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.".

SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL SUPPORT OF CHILDREN OF THEIR MINOR CHILDREN.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, 9470(a), and 9473 of this Act, is amended by inserting after paragraph (19) the following:

"(20) Procedures under which each parent of an individual who has not attained 18 years of age is liable for the financial support of any child of the individual to the extent that the individual is unable to provide such support. The preceding sentence shall not apply to the State if the State plan explicitly provides for such inapplicability.".

SEC. 9475. SENSE OF THE CONGRESS REGARDING PROGRAMS FOR NONCUSTODIAL PARENTS UNABLE TO MEET CHILD SUPPORT OBLIGATIONS.

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 are designed to work with noncustodial parents who are unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(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 by an administrative adjudicator 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 first 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 first 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 first 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.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended adding at the end the following:

"(i) 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.).

"(j) 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. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 9491 of this Act, is amended by adding at the end the following:

"(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(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 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 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.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 9498. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring 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 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—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment, or

(2) the date five years after enactment of this title.

SEC. 9499. SEVERABILITY.

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:

"(8) 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 never married, and who has a needy child in his or her care (or is pregnant and is eligible for temporary employment 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 and child; and

"(B)(i) 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 current 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

receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

"(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, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency); and

"(ii) for purposes of clause (i), an individual is described in this clause if—

"(I) such individual has no parent or legal guardian of his or her own who 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; or

"(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the needy child to waive the requirement of subparagraph (A) with respect to 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 9101(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) IN GENERAL.—Title XX (42 U.S.C. 1397-1397f), as amended by section 9205(b) of this Act, is amended by adding at the end the following:

"SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

"(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

"(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

"(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

"(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention program 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) identify model programs representing the various types of adolescent pregnancy prevention programs;

"(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

"(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

"(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

"(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Clearinghouse 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 that includes—

"(A) a local education agency, acting on behalf of one or more schools, together with

"(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 as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

"(B) the number of children receiving assistance under a State plan approved under part A of title IV of this Act 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) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

"(5) 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. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 9101(a) of this Act, is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following:

"(ii) in the case of a client who is a custodial parent who is under age 18 (or age 19, at the option of the State), has not successfully completed a high-school education (or its equivalent), and is required to participate in the Work First program (including an individual who would otherwise be exempt from participation in the program), shall provide that—

"(I) such parent participate in—

"(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

"(bb) an alternative educational or training program on a full-time (as defined by the provider) basis; and

"(II) child care be provided in accordance with section 2009 with respect to the family.".

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(iii) 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) participate in a program of monetary incentives and penalties which—

"(I) may, at the option of the State, require full-time 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 or parenting education activities (or any combination of such activities and secondary education);

"(II) 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 individual 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 service providers will coordinate with the educational or skills training activities in which the client is participating;

"(III) shall provide monetary incentives (to be treated as assistance under the State plan) for more than minimally acceptable performance of required educational activities;

"(IV) shall provide penalties (which may be those required by subsection (e) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities;

"(V) 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 directly to such parent, regardless of whether the State agency makes payment of assistance under the State plan directly to such parent; and

"(VI) for purposes of any other Federal or federally-assisted program based on need, shall not consider any monetary incentive paid under the State plan as income in determining a family's eligibility for or amount of benefits under such program, and if assistance is reduced by reason of a penalty under this clause, such other program shall treat the family involved as if no such penalty has been applied.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MINORS WHO BEAR CHILDREN OUT-OF-WEDLOCK.

(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—

(1) after the birth of the child—

(A) the individual marries an individual who has been determined by the relevant State to be the biological father of the child; or

(B) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(2) the individual is a biological and custodial parent of another child who was not born out-of-wedlock; or

(3) eligibility for such Federal housing assistance is based in whole or in part on any disability or handicap of a member of the household.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term "covered program" means—

(A) the program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) the public housing program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(C) the program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(D) the program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(E) the program for mortgage insurance provided pursuant to sections 221(d) (3) or (4) of the National Housing Act (12 U.S.C. 17151(d)) for multifamily housing for low- and moderate-income families;

(F) the rural housing loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472);

(G) the rural housing loan guarantee program under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h));

(H) the loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings;

(I) the program of loans for rental and cooperative rural housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(J) the program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A));

(K) the loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor;

(L) the program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c);

(M) the program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m); and

(N) the program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(2) COVERED PROJECT.—The term "covered project" means any housing for which Federal housing assistance is provided that is attached to the project or specific dwelling units in the project.

(3) FEDERAL HOUSING ASSISTANCE.—The term "Federal housing assistance" means—

(A) assistance provided under a covered program in the form of any contract, grant, loan, subsidy, cooperative agreement, loan or mortgage guarantee or insurance, or other financial assistance; or

(B) occupancy in a dwelling unit that is—

(i) provided assistance under a covered program; or

(ii) located in a covered project and subject to occupancy limitations under a covered program that are based on income.

(4) 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, American Samoa, and any other territory or possession of the United States.

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance provided for a household pursuant to an application or request for such assistance made by such household before the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

Subtitle F—SSI Reform

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) 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 (H) as subparagraphs (D) through (I), 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."; and

(5) in subparagraph (F), as so redesignated by paragraph (3) of this subsection, 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/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) 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) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) 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 amendments made by subsection (a) or (b). 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 amendments made by subsections (a) and (b), 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.

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—

(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, which is unlikely to improve, at the option of the Commissioner).

"(II) A parent or guardian 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.".

(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 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) 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 have attained the age of 18 years.

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.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsections (a) and (b) of this section, 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 parent or guardian 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.".

(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. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking "and" at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting "; and", and by adding after subclause (IV) the following new subclause:

"(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 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(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

"(C)(i) In any case where payment is made to a representative payee of an individual or spouse, 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 reviewing a sample of such contemporaneous 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(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking "Clause (i)" and inserting "Subclauses (II) and (III) of clause (i)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following:

"(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

"(I) education and job skills training;

"(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

"(III) appropriate therapy and rehabilitation.".

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking "and" at the end of paragraph (10),

(B) by striking the period at the end of paragraph (11) and inserting "; and", and

(C) by inserting after paragraph (11) the following:

"(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 9601(a)(3) of this Act, is amended by adding at the end the following:

"(J) 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) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1613(a)(12) (42 U.S.C. 1382b(a)(12)) is amended by striking "1631(a)(2)(B)(xiv)" and inserting "1631(a)(2)(B)(xiii)".

(3) Section 1631(a)(2)(A)(ii) (42 U.S.C. 1383(a)(2)(A)(ii)) is amended—

(A) by striking "(I)"; and

(B) by striking subclause (II).

(4) Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) by striking clause (vii);

(B) in clause (viii), by striking "(ix)" and inserting "(viii)";

(C) in clause (ix)—

(i) by striking "(viii)" and inserting "(vii)"; and

(ii) in subclause (II), by striking all that follows "15 years" and inserting a period;

(D) in clause (xiii)—

(i) by striking "(xii)" and inserting "(xi)"; and

(ii) by striking "(xi)" and inserting "(x)";

(E) in clause (xiv) (as added by section 9603(b)(1) of this Act), by striking "(x)" and inserting "(ix)"; and

(F) by redesignating clauses (viii) through (xiv) as clauses (vii) through (xiii), respectively.

(5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking all that follows "$25.00 per month" and inserting a period.

(6) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(7) 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 "—" and all that follows through "(A)" the 1st place such term appears;

(B) by striking "and" the 3rd place such term appears;

(C) by striking subparagraph (B);

(D) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(E) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995, and shall apply with respect to months beginning on or after such date.

(d) FUNDING OF CERTAIN PROGRAMS FOR DRUG ADDICTS AND ALCOHOLICS.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Director of the National Institute on Drug Abuse—

(1) $95,000,000, for each of fiscal years 1997, 1998, 1999, and 2000, for expenditure through the Federal Capacity Expansion Program to expand the availability of drug treatment; and

(2) $5,000,000 for each of fiscal years 1997, 1998, 1999, and 2000 to be expended solely on the medication development project to improve drug abuse and drug treatment research.

SEC. 9605. 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.

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 eligible individual 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 under programs that are funded under part A of title IV, or title XIX of this Act, the consolidated program of food assistance under chapter 2 of subtitle E of title XIV of the Omnibus Budget Reconciliation Act of 1995, or the Food Stamp Act of 1977 (as in effect before the effective date of such chapter), or benefits in 2 or more States under the supplemental security income program under title XVI of this Act.".

SEC. 9606. 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 9604(b)(1) of this Act, is amended by inserting after paragraph (2) the following:

"(3) A person shall not be an eligible individual or eligible spouse 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 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 1631(e) of such Act (42 U.S.C. 1383(e)) 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 of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is 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;

"(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;

"(B) the location or apprehension of the recipient is within the official duties of the officer; and

"(C) the request is made in the proper exercise of such duties.".

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS BY REASON OF DISABILITY.

(a) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by section 9602 of this Act, is amended by adding at the end the following:

"(v) In the case of an individual who has attained 18 years of age and for whom a determination has been made of eligibility for a benefit under this title by reason of disability, the following applies:

"(I) Subject to the provisions of this clause, the determination of eligibility is effective for the 3-year period beginning on the date of the determination, and the eligibility of the individual lapses unless a determination of continuing eligibility is made before the end of such period, and before the end of each subsequent 3-year period. This subclause ceases to apply to the individual upon the individual attaining 65 years of age. This subclause does not apply to the individual if the individual has an impairment that is not expected to improve (or a combination of impairments that are not expected to improve).

"(II) With respect to a determination under subclause (I) of whether the individual continues to be eligible for the benefit (in this clause referred to as a 'redetermination'), the Commissioner may not make the redetermination unless the individual submits to the Commissioner an application requesting the redetermination. If such an application is submitted, the Commissioner shall make the redetermination. This subclause is subject to subclause (V).

"(III) If as of the date on which this clause takes effect the individual has been receiving the benefit for three years or less, the first period under subclause (I) for the individual is deemed to end on the expiration of the period beginning on the date on which this clause takes effect and continuing through a number of months equal to 12 plus a number equal to 36 minus the number of months the individual has been receiving the benefit.

"(IV) If as of the date on which this clause takes effect the individual has been receiving the benefit for five years or less, but for more than three years, the first period under subclause (I) for the individual is deemed to end on the expiration of the 1-year period beginning on the date on which this clause takes effect.

"(V) If as of the date on which this clause takes effect the individual has been receiving the benefit for more than five years, the Commissioner shall make redeterminations under subclause (I) and may not require the individual to submit applications for the redeterminations. The first 3-year period under subclause (I) for the individual is deemed to begin upon the expiration of the period beginning on the date on which this clause takes effect and ending upon the termination of a number of years equal to the lowest number (greater than zero) that can be obtained by subtracting the number of years that the individual has been receiving the benefit from a number that is a multiple of three.

"(VI) If the individual first attains 18 years of age on or after the date on which this clause takes effect, the first 3-year period under subclause (I) for the individual is deemed to end on the date on which the individual attains such age.

"(VII) Not later than one year prior to the date on which a determination under subclause (I) expires, the Commissioner shall (except in the case of an individual to whom subclause (V) applies) provide to the individual a written notice explaining the applicability of this clause to the individual, including an explanation of the effect of failing to submit the application. If the individual submits the application not later than 180 days prior to such date and the Commissioner does not make the redetermination before such date, the Commissioner shall continue to provide the benefit pending the redetermination and shall publish in the Federal Register a notice that the Commissioner was unable to make the redetermination by such date.

"(VIII) If the individual fails to submit the application under subclause (II) by the end of the applicable period under subclause (I), the individual may apply for a redetermination. The Commissioner shall make the redetermination for the individual only after making redeterminations for individuals for whom eligibility has not lapsed pursuant to subclause (I).".

(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 (a) takes effect upon the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 9608. NARROWING OF SSI ELIGIBILITY ON BASIS OF MENTAL IMPAIRMENTS.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by adding at the end the following sentence: "In making determinations under this clause regarding the severity of mental impairments, the Secretary shall revise the regulations under subpart P of part 404 of title 20, Code of Federal Regulations, to accomplish the result that (relative to such regulations as in effect prior to the date on which this sentence takes effect) less weight is given to criteria regarding concentration, persistence (and pace), and ability to tolerate increased mental demand associated with competitive work, and that, accordingly, the eligibility criteria regarding mental impairments are narrowed.".

(b) FINAL REGULATIONS.—The final rule for the regulations required in subsection (a) shall be issued before the expiration of the 9-month period beginning on the date of the enactment of this Act, and shall take effect upon the expiration of such period.

SEC. 9609. REDUCTION IN UNEARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking "$20" and inserting "$15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits for months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 9701. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall not apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 9702. 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. 2012(c)) is amended to read as follows:

"(c) 'Certification period' means the period specified by the State agency for which households shall be eligible to receive authorization cards, except that such period shall be—

"(1) 24 months for households in which all adult members are elderly or disabled; and

"(2) not more than 12 months for all other households.".

(2) Section 6(c)(1)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

(A) in clause (ii) by adding "and" at the end;

(B) in clause (iii) by striking ": and" at the end and inserting a period; and

(C) by striking clause (iv).

(b) ENERGY ASSISTANCE COUNTED AS INCOME.—

(1) LIMITING EXCLUSION.—Section 5(d)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)) is amended—

(A) by striking "(A) under any Federal law, or (B)"; and

(B) by inserting before the comma at the end the following: ", except that no benefits provided under the State program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall be excluded under this clause".

(2) CONFORMING AMENDMENTS.—

(A) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking the ninth through the twelfth sentences.

(B) Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (C) and redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(C) Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended by adding at the end the following:

"(4) For purposes of subsection (d)(1), any payments or allowances made under any Federal or State law for the purposes of energy assistance shall be treated as money payable directly to the household.".

(D) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8634(f)) is amended—

(i) in paragraph (1), by striking "food stamps";

(ii) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding"; and

(iii) by striking paragraph (2).

(c) EXCLUSION OF CERTAIN JTPA INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d)—

(A) by striking "and (16)" and inserting "(16)"; and

(B) by inserting before the period at the end the following: ", and (17) income received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) by a household member who is less than 19 years of age"; and

(2) in subsection (l), by striking "under section 204(b)(1)(C)" and all that follows and inserting "shall be considered earned income for purposes of the food stamp program.".

(d) EXCLUSION OF LIFE INSURANCE POLICIES.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(6) The Secretary shall exclude from financial resources the cash value of any life insurance policy owned by a member of a household.".

(e) IN-TANDEM EXCLUSIONS FROM INCOME.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end the following:

"(n) Whenever a Federal statute enacted after the date of the enactment of this Act excludes funds from income for purposes of determining eligibility, benefit levels, or both under State plans approved under part A of title IV of the Social Security Act, then such funds shall be excluded from income for purposes of determining eligibility, benefit levels, or both, respectively, under the food stamp program of households all of whose members receive benefits under a State plan approved under part A of title IV of the Social Security Act.".

SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

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: "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 LACK OF BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)), as amended by section 9703, is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied or that has such an approval withdrawn on the basis of business integrity and reputation cannot 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. 9705. 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 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(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(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 that has an application for approval to accept and redeem coupons denied because it does not meet criteria for approval established by the Secretary in regulations from submitting a new application for six months from the date of such denial.".

SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data, or evidence obtained through transaction reports under electronic benefit transfer systems.".

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)), as amended by section 9707, 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 at the time such store or concern is initially found to have committed violations of program requirements. Such suspension may coincide with the period of a review as provided in section 14. The Secretary shall not be liable for the value of any sales lost during any suspension or disqualification period.".

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) in the first sentence by inserting "suspended," before "disqualified or subjected";

(2) in the fifth sentence by inserting before the period at the end the following: ", except that in the case of the suspension of a retail food store or wholesale food concern pursuant to section 12(a), such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action, and the period of suspension shall be deemed a part of any period of disqualification which is imposed."; and

(3) by striking the last sentence.

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:

"(g) The Secretary shall issue regulations providing criteria for the disqualification of approved retail food stores and wholesale food concerns that are otherwise disqualified from accepting benefits under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized under section 17 of the Child Nutrition Act of 1966. Such disqualification—

"(1) shall be for the same period as the disqualification from the WIC Program;

"(2) may begin at a later date; and

"(3) notwithstanding section 14 of this Act, shall not be subject to administrative or judicial review.".

SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021), as amended by section 9709, is amended by adding at the end the following:

"(h) The Secretary shall issue regulations providing for the permanent disqualification of a retail food store or wholesale food concern that is determined to have knowingly submitted an application for approval to accept and redeem coupons which contains false information about one or more substantive matters which were the basis for providing approval. Any disqualification imposed under this subsection shall be subject to administrative and judicial review pursuant to section 14, but such disqualification shall remain in effect pending such review.".

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—Section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking "or intended to be furnished".

(b) CIVIL AND CRIMINAL FORFEITURE.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is amended by adding at the end the following:

"(h)(1) CIVIL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

"(A) Any food stamp benefits and any property, real or personal—

"(i) constituting, derived from, or traceable to any proceeds obtained directly or indirectly from, or

"(ii) used, or intended to be used, to commit, or to facilitate,

the commission of a violation of subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall be subject to forfeiture to the United States.

"(B) The provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to a seizure or forfeiture under this subsection, insofar as applicable and not inconsistent with the provisions of this subsection.

"(2) CRIMINAL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

"(A)(i) Any person convicted of violating subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall forfeit to the United States, irrespective of any State law—

"(I) any food stamp benefits and any property constituting, or derived from, or traceable to any proceeds such person obtained directly or indirectly as a result of such violation; and

"(II) any food stamp benefits and any of such person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

"(ii) In imposing sentence on such person, the court shall order that the person forfeit to the United States all property described in this subsection.

"(B) All food stamp benefits and any property subject to forfeiture under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding relating thereto, shall be governed by subsections (b), (c), (e), and (g) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), insofar as applicable and not inconsistent with the provisions of this subsection.

"(3) APPLICABILITY.—This subsection shall not apply to property specified in subsection (g) of this section.

"(4) RULES.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this subsection.".

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(C)(iii) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(iii)) (as amended by section 316(a) of the Social Security Administrative Reform Act of 1994 (Public Law 103-296; 108 Stat. 1464) is amended—

(1) by inserting in the first sentence of subclause (II) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) by inserting in the last sentence of subclause (II) immediately after "other Federal" the words "or State"; and

(3) by inserting "or a State" in subclause (III) immediately after "United States".

(b) Section 6109(f)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)(2)) (as added by section 316(b) of the Social Security Administrative Reform Act of 1994 (Public Law 103-296; 108 Stat. 1464)) is amended—

(1) by inserting in subparagraph (A) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) in the last sentence of subparagraph (A) by inserting "or State" after "other Federal"; and

(3) in subparagraph (B) by inserting "or a State" after "United States".

SEC. 9713. EXPANDED 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 cards, cash or checks issued of coupons or access devices, including, but not limited to, electronic benefit transfer cards and personal identification numbers".

SEC. 9714. 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—

(1) in clause (i)—

(A) by striking "six months" and inserting "1 year"; and

(B) by adding "and" at the end; and

(2) striking clauses (ii) and (iii) and inserting the following:

"(ii) permanently upon—

"(I) the second occasion of any such determination; or

"(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), firearms, ammunition, or explosives for coupons.".

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the semicolon at the end.

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the period at the end.

(c) Section 6103(l) of the Internal Revenue Code (26 U.S.C. 6103(l)) is amended—

(1) by striking "officers and employees" in paragraph (10)(A) 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. PROMOTING EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended—

(1) by amending paragraph (1) to read:

"(1)(A) State agencies are encouraged to implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) Subject to paragraph (2), a State agency is authorized to procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency deems appropriate.

"(C) The Secretary shall, upon request of a State agency, waive any provision of this subsection prohibiting the effective implementation of an electronic benefit transfer system consistent with the purposes of this Act. The Secretary shall act upon any request for such a waiver within 90 days of receipt of a complete application.";

(2) in paragraph (2), by striking "for the approval"; and

(3) in paragraph (3), by striking "the Secretary shall not approve such a system unless" and inserting "the State agency shall ensure that".

SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

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) in clause (11) by inserting "through October 1, 1994" after "each October 1 thereafter"; and

(3) by inserting before the period at the end the following:

", and (12) on October 1, 1995, and on each October 1 thereafter, adjust the cost of such diet to reflect 100 percent of the cost, in the preceding June (without regard to any previous adjustment made under this clause or clauses (4) through (11) of this subsection) and round the result to the nearest lower dollar increment for each household size".

SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.

The second sentence of section 5(e)(4) (7 U.S.C. 2014(e)(4)) is amended by inserting ", except October 1, 1995, and October 1, 1996" after "thereafter".

SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS IN PARTICIPATION.

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. 9720. 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 sections 9491 and 9492, is amended by adding at the end the following:

"(*l*) DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be ineligible to participate in the food stamp program as a member of any household during a 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 to receive benefits simultaneously from 2 or more States under—

"(1) the food stamp program;

"(2) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under title XIX of the Act (42 U.S.C. 1396 et seq.); or

"(3) the supplemental security income program under title XVI of the Act (42 U.S.C. 1381 et seq.).".

SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, and 9720, is amended by adding at the end the following:

"(m) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(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 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 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. 9722. STATE AUTHORIZATION TO ASSIST LAW ENFORCEMENT OFFICERS IN LOCATING FUGITIVE FELONS.

Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(B)) is amended by striking "Act, and" and inserting "Act or of locating a fugitive felon (as defined by a State), and".

SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPIENTS.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, 9720, and 9721, is amended by adding at the end the following:

"(n) 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 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 household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly;

"(B) participate in a workfare program under section 20 or a comparable State or local workfare program;

"(C) participate in and comply with the requirements of an approved employment and training program under subsection (d)(4); or

"(D) participate in and comply with the requirements of a work program for 20 hours or more per week.

"(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 a dependent child under 18 years of age; or

"(D) otherwise exempt under subsection (d)(2).

"(4) WAIVER.—

"(A) IN GENERAL.—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 8 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.".

(b) WORK AND TRAINING PROGRAMS.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

"(O) 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).

"(P) COORDINATING WORK REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, a State agency that meets the participation requirements of clause (ii) may operate the employment and training program of the State for individuals who are members of households receiving allotments under this Act as part of a program operated by the State under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), subject to the requirements of the Act.

"(ii) PARTICIPATION REQUIREMENTS.—A State agency may exercise the option under clause (i) if the State agency provides an opportunity to participate in an approved employment and training program to an individual who is—

"(I) subject to subsection (i);

"(II) not employed at least an average of 20 hours per week;

"(III) not participating in a workfare program under section 20 (or a comparable State or local program); and

"(IV) not subject to a waiver under subsection (i)(4).".

(c) ENHANCED EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking "$75,000,000 for each of the fiscal years 1991 through 1995" and inserting "$150,000,000 for each of fiscal years 1996 through 2000";

(2) by striking subparagraphs (B), (C), (E), and (F);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking "for each" and all that follows through "of $60,000,000" and inserting ", the Secretary shall allocate funding".

SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 8(d) of the Food Stamp Act of 1977 (7 U.S.C. 2019(d)) is amended—

(1) by striking "(d) A household" and inserting the following:

"(d) NONCOMPLIANCE WITH OTHER WELFARE OR WORK PROGRAMS.—

"(1) IN GENERAL.—A household"; and

(2) by inserting "or a work requirement under a welfare or public assistance program" after "assistance program"; and

(3) by adding at the end the following:

"(2) WORK REQUIREMENT.—If a household fails to comply with a work requirement under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), 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 a penalty imposed for the failure to comply; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.".

SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION RATES.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "September 30, 1995" each place it appears and inserting "September 30, 2002".

SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.

Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking "1994, and" and inserting "1994."; and

(2) by inserting "and $1,143,000,000 for fiscal year 1996," before "to finance".

SEC. 9727. 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)".

CHAPTER 2—COMMODITY DISTRIBUTION

SEC. 9751. SHORT TITLE.

This chapter may be cited as the "Commodity Distribution Act of 1995".

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 and useful 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 section 32 of the 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 customarily purchased under such section to the States for distribution in accordance to this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the 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.

(d) In addition to the commodities described in subsections (a), (b), and (c), commodities acquired by the Commodity Credit Corporation that the Secretary determines, in the discretion of the Secretary, are in excess of quantities needed to—

(1) carry out other domestic donation programs;

(2) meet other domestic obligations;

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act; shall be made available by the Secretary, without charge or credit for such commodities, to the States for distribution in accordance with this chapter.

(e) During each fiscal year, the types, varieties, and amounts of commodities to be purchased under this chapter shall be determined by the Secretary. In purchasing such commodities, except those commodities purchased pursuant to section 9760, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) the preferences and needs of States and distributing agencies; and

(3) the preferences of the recipients.

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 person may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities that such entities or persons donate for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(1) the funds appropriated for administrative cost under section 9759(b);

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter; and

(3) the personnel, both paid or volunteer, involved in such storage, handling, or distribution; to store, handle or distribute commodities donated for use under subsection (a).

(c) States and recipient agencies shall continue, to the maximum extent practical, to use volunteer workers, and commodities and other foodstuffs donated by charitable and other organizations, in the distribution of commodities under this chapter.

SEC. 9754. STATE PLAN.

(a) A State seeking to receive commodities under this chapter shall submit a plan of operation and administration every four years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) The State plan, at a minimum, shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter in quantities requested to eligible recipient agencies in accordance with sections 9756 and 9760;

(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 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 geographic location served by the distributing agency at the time of application for assistance.

(c) The Secretary shall encourage 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 State.

(d) A State agency receiving commodities under this chapter may—

(1)(A) enter into cooperative agreements with State agencies of other States to jointly provide commodities received under this chapter to eligible recipient agencies that serve needy persons in a single geographical area which includes such States; or

(B) transfer commodities received under this chapter to any such eligible recipient agency in the other State under such agreement; and

(2) advise the Secretary of an agreement entered into under this subsection and the transfer of commodities made pursuant to such agreement.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9760, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 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 60 percent of such total value as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line. Each State shall receive the value of commodities allocated under 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 during the same fiscal year. Each State shall receive the value of commodities allocated to the State under this paragraph.

(b)(1) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under subsection (a) or this subsection, if applicable. Each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute such commodities in a manner the Secretary deems appropriate and equitable. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year in a manner the State determines

is appropriate and the Secretary shall reallocate and distribute such allocation as the Secretary deems appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing 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 determines appropriate within each fiscal year. All commodities so purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and or carry 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 subsections (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise make available, 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(3) not receiving commodities under subsection (a).

(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 Secretary may use funds of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter into forms and in quantities suitable, as 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 thereof. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31, 1997, and not less than every two years thereafter, a report as to whether and to what extent such displacements or substitutions are occurring.

(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 anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) PURCHASE OF COMMODITIES.—To carry out this chapter, there are authorized to be appropriated $260,000,000 for each of the fiscal years 1996 through 2000 to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) ADMINISTRATIVE FUNDS.—

(1) There are authorized to be appropriated $40,000,000 for each of the fiscal years 1996 through 2000 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this chapter, excluding costs associated with the distribution of those commodities distributed under section 9760. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are allocated among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States in a manner the Secretary deems appropriate and equitable.

(2)(A) A State shall make available in each fiscal year to eligible recipient agencies in the State not less than 40 percent of the funds received by the State under paragraph (1) for such fiscal year, as necessary to pay for, or provide advance payments to cover, the allowable expenses of eligible recipient agencies for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such recipient agencies.

(B) As used in this paragraph, the term "allowable expenses" includes—

(i) costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after such commodities are received by eligible recipient agencies;

(ii) costs associated with determinations of eligibility, verification, and documentation;

(iii) costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; and

(iv) costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

(C) If a State makes a payment, using State funds, to cover allowable expenses of eligible recipient agencies, the amount of such payment shall be counted toward the amount a State must make available for allowable expenses of recipient agencies under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or eligible recipient agencies for costs other than those involved in covering the expenses related to the distribution of commodities by eligible recipient agencies.

(4)(A) Except as provided in subparagraph (B), to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to eligible recipient agencies; or

(II) for the allowable expenses of such recipient agencies for use in carrying out this chapter.

(B) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(C) Any funds distributed for administrative costs under section 9760(b) shall not be covered by this paragraph.

(5) 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, under this chapter.

(c) 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 (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations authorized by 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 supplemental feeding programs serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the "commodity supplemental food program"), or serving both groups wherever located.

(b) Not more than 20 percent of the funds made available under subsection (a) shall be made available to the States for State and local payments of administrative costs associated with the distribution of commodities by eligible recipient agencies under this section. Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(c)(1) During each fiscal year the commodity supplemental food program is in operation, the types, varieties, and amounts of commodities to be purchased under this section shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or amounts from those that were available or were planned at the beginning of the fiscal year the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1996 through 2000 to the Secretary. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(d) The Secretary shall, in each fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate, to the full extent that applications can be approved within the appropriations available for the

program for the fiscal year and without reducing actual participation levels (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 to the agency to carry out this section 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 significantly higher than expected price for one or more types of commodities purchased under this section, 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 decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(g) Commodities distributed to States pursuant to this section shall not be considered in determining the commodity allocation to each State under section 9755 or priority of distribution under section 9756.

SEC. 9761. COMMODITIES NOT INCOME.

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for purposes of determining recipient eligibility under any Federal, State, or local means-tested program.

SEC. 9762. PROHIBITION AGAINST CERTAIN STATE CHARGES.

Whenever a commodity is made available without charge or credit under this chapter by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing, and transporting to recipient agencies the commodities minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

SEC. 9763. DEFINITIONS.

As used in this chapter:

(1) The term "average monthly number of unemployed persons" means the average monthly number of unemployed persons within a State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(2) The term "elderly persons" means individuals 60 years of age or older.

(3) The term "eligible recipient agency" means a public or nonprofit organization that administers—

(A) an institution providing commodities to supplemental feeding programs serving women, infants, and children or serving elderly persons, or serving both groups;

(B) an emergency feeding organization;

(C) a charitable institution (including hospitals and retirement homes and excluding penal institutions) to the extent that such institution serves needy persons;

(D) a summer camp for children, or a child nutrition program providing food service;

(E) a nutrition project operating under the Older Americans Act of 1965, including such projects that operate a congregate nutrition site and a project that provides home-delivered meals; or

(F) a disaster relief program; and that has been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(4) 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) The term "food bank" means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products thereof, 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) 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) The term "needy 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.); or

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(8) The term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(9) The term "soup kitchen" means a public and charitable institution that, as integral part of its normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

SEC. 9764. REGULATIONS.

(a) The Secretary shall issue regulations within 120 days to implement this chapter.

(b) In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register a nonbinding estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses for the commodities distributed under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of eligible recipient agencies.

SEC. 9765. FINALITY OF DETERMINATIONS.

Determinations made by the Secretary under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) 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.

SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

(a) The Secretary may—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SEC. 9768. REPEALERS; AMENDMENTS.

(a) REPEALER.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

(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.

(2) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking section 4.

(3) The Charitable Assistance and Food Bank Act of 1987 (7 U.S.C. 612c note) is amended by striking section 3.

(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1562(a) and section 1571; and

(B) in section 1562(d), by striking "section 4 of the Agricultural and Consumer Protection Act of 1973" and inserting "section 9752 of the Commodity Distribution Act of 1995".

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL 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 excessive investment income) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

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

"(D) capital gain net income for the taxable year."

(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 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 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 VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—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, foreign or domestic, if—

"(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, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured 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, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

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

"(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose income is verified by a sponsoring organization under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), 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 provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(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 increment and based on the unrounded adjustment for the preceding 12-month period.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (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, 40 cents for breakfasts, and 20 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 down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided 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 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 that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined 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 subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or 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 the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards 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 (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) SPONSOR PAYMENTS.—Section 17(f)(3)(B) of the National School Lunch Act is amended—

(A) by striking the period at the end of the second sentence and all that follows through the end of the subparagraph and inserting the following:", except that the adjustment that otherwise would occur on July 1, 1996, shall be made on August 1, 1996. The maximum allowable levels for administrative expense payments shall be rounded to the nearest lower dollar increment and based on the unrounded adjustment for the preceding 12-month period.";

(B) by striking "(B)" and inserting "(B)(i)"; and

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

"(ii) The maximum allowable level of administrative expense payments shall be adjusted by the Secretary—

"(I) to increase by 7.5 percent the monthly payment to family or group day care home sponsoring organizations both for tier I family or group day care homes and for those tier II family or group day care homes for which the sponsoring organization administers a means test as provided under subparagraph (A)(iii); and

"(II) to decrease by 7.5 percent the monthly payment to family or group day care home sponsoring organizations for family or group day care homes that do not meet the criteria for tier I homes and for which a means test is not administered.".

(3) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).".

(4) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (as amended by paragraph (3)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the program under this section shall annually provide to a family or group day care home sponsoring organizations that request the data, a list of schools serving elementary school children in the State in which at least 50 percent of the children enrolled are certified to receive free or reduced price meals. State agencies administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall collect such data annually and provide such data on a timely basis to the State agency administering the program under this section.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(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 or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(5) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the National School Lunch Act is amended by inserting "(including institutions that are not family or group day care home sponsoring organizations)" after "institutions".

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

(3) IMPLEMENTATION.—The Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (2), (3), and (4) of subsection (b) and the provisions of section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)) not later than February 1, 1996. If such regulations are issued in interim form, final regulations shall be issued not later than August 1, 1996.

SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

(1) by striking "Out of" and all that follows through "and $10,000,000" and inserting "To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $10,000,000"; and

(2) by striking the last sentence.

Subtitle H—Treatment of Aliens

SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RESOURCES UNDER TEA, SSI, AND FOOD STAMP PROGRAMS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), in applying sections 407 and 1621 of the Social Security Act and section 5(i) of the Food Stamp Act of 1977, the period in which each respective section otherwise applies with respect to an alien shall be extended through the date (if any) on which the alien becomes a citizen of the United States (under chapter 2 of title III of the Immigration and Nationality Act).

(b) EXCEPTION.—Subsection (a) shall not apply to an alien if—

(1) the alien has been lawfully admitted to the United States for permanent residence, has attained 75 years of age, and has resided in the United States for at least 5 years;

(2) the alien—

(A) is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge,

(B) is on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) is the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B);

(3) the alien is the subject of domestic violence by the alien's spouse and a divorce between the alien and the alien's spouse has been initiated through the filing of an appropriate action in an appropriate court; or

(4) there has been paid with respect to the self-employment income or employment of the alien, or of a parent or spouse of the alien, taxes under chapter 2 or chapter 21 of the Internal Revenue Code of 1986 in each of 20 different calendar quarters.

(c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—Subsection (a) shall not apply with respect to determinations of eligibility for benefits under a State plan approved under part A of title IV of the Social Security Act or under the supplemental income security program under title XVI of such Act but only insofar as such determinations provide for eligibility for medical assistance under title XIX of such Act.

(d) RULES REGARDING INCOME AND RESOURCE DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A of title IV of the Social Security Act, as added by section 9101(a) of this Act, is amended by adding at the end the following:

"SEC. 407. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

"(a) For purposes of determining eligibility for and the amount of assistance under a State plan approved under this part for an individual who is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) 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;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living 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 making a determination under section 402(d);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such

household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability: and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien 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) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined: and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) 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 determines that such sponsor either no longer exists or has become unable to meet such individual's needs: and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility 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), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of assistance under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) 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 considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).".

SEC. 9802. REQUIREMENTS FOR SPONSOR'S AFFIDAVITS 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) IN GENERAL.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the Federal Government, by a State, or by any political subdivision of a State, providing cash benefits under a public cash assistance program (as defined in subsection (f)(2)), but not later than 5 years after the date the alien last receives any such cash benefit; and

"(B) 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) EXPIRATION OF LIABILITY.—Such contract shall only apply with respect to cash benefits described in paragraph (1)(A) provided to an alien before the earliest of the following:

"(A) CITIZENSHIP.—The date the alien becomes a citizen of the United States under chapter 2 of title III.

"(B) VETERAN.—The first date the alien is described in section 9801(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1995.

"(C) PAYMENT OF SOCIAL SECURITY TAXES.—The first date as of which the condition described in section 9801(b)(4) of the Omnibus Budget Reconciliation Act of 1995 is met with respect to the alien.

"(3) NONAPPLICATION DURING CERTAIN PERIODS.—Such contract also shall not apply with respect to cash benefits described in paragraph (1)(A) provided during any period in which the alien is described in section 9801(b)(2)(B) or 9801(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1995.

"(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) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) REQUIREMENT.—The sponsor shall notify the Federal Government and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1)(A).

"(2) ENFORCEMENT.—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 sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

"(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) IN GENERAL.—Upon notification that a sponsored alien has received any cash benefits described in subsection (a)(1)(A), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such cash benefits.

"(B) REGULATIONS.—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) INITIATION OF ACTION.—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) FAILURE TO ABIDE BY REPAYMENT TERMS.—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) LIMITATION ON ACTIONS.—No cause of action may be brought under this subsection later than 5 years after the date the alien last received any cash benefit described in subsection (a)(1)(A).

"(f) 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; and

"(C) is domiciled in any State.

"(2) PUBLIC CASH ASSISTANCE PROGRAM.—The term 'public cash assistance program' means a program of the Federal Government or of a State or political subdivision of a State that provides direct cash assistance for the purpose of income maintenance and in which the eligibility of an individual, household, or family eligibility unit for cash benefits under the program, or the amount of such cash benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit. Such term does not include any program insofar as it provides medical, housing, education, job training, food, or in-kind assistance or social services.".

(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 213A.

SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

"(4) PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT.—

"(A) 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.

"(B) AFFIDAVITS OF SUPPORT.—Any immigrant who seeks admission or adjustment of status as any of the following is excludable unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A:

"(i) As an immediate relative (under section 201(b)(2)).

"(ii) As a family-sponsored immigrant under section 203(a) (or as the spouse or child under section 203(d) of such an immigrant).

"(iii) As the spouse or child (under section 203(d)) of an employment-based immigrant under section 203(b).

"(iv) As a diversity immigrant under section 203(c) (or as the spouse or child under section 203(d) of such an immigrant).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens with respect to whom an immigrant visa is issued (or adjustment of status is granted) after the date specified by the Attorney General under section 9802(c).

Subtitle I—Earned Income Tax Credit

SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax 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 number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (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) of such Code (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 tax 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-employment 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.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—

This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—

Subtitle A—Tax Treatment of Expatriation

SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph with respect to any property—

"(i) this section (other than this paragraph) shall not apply to such property, but

"(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

"(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

"(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax- favored treatment.

"(B) FOREIGN PENSION PLANS.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

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

"(1) 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(b)(6)), 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 the foreign country and who 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 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)-(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—For purposes of this section—

"(A) GENERAL RULE.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) SPECIAL RULE.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

"(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(i) the methodology used to determine that taxpayer's trust interest under this section, and

"(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) RULES RELATING TO PAYMENT OF TAX.—

"(1) IMPOSITION OF TENTATIVE TAX.—

"(A) 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 expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(B) DUE DATE.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

"(C) TREATMENT OF TAX.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(2) DEFERRAL OF TAX.—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 Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

"(3) RULES RELATING TO SECURITY INTERESTS.—

"(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 2056A.

"(B) SPECIAL RULE FOR TRUST.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—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 to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

"(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 trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

"(k) 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)(3)) 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:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i)."

(3) Section 2501(a)(3) 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(i)."

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1))."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 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 expatriation."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs 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.

SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 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.

"(a) GENERAL RULE.—If a nonresident alien individual becomes a citizen or resident of the United States, 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 substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

"(b) 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, or

"(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 becoming a United States real property interest (within the meaning of section 897(c)(1)).

"(2) RESIDENT.—The term '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 a foreign country and who 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 gain 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 resident of the United States.

"(d) 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 1 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

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL 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 excessive investment income) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

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

"(D) capital gain net income for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

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 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 VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—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, foreign or domestic, if—

"(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, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured 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, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

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

"(1) NET BUSINESS RECEIPTS.—The term 'net business receipts' means the value of all parts or products sold in the United States, excluding—

"(A) the value of parts or products sold for export,

"(B) expenses paid for parts or products produced in the United States,

"(C) expenses paid for services performed in the United States, and

"(D) amounts paid for income, sales or use taxes imposed by any State, or political subdivision thereof, or by the District of Columbia, Puerto Rico, Guam or the Virgin Islands.

"(2) SUBSIDIARY OR AFFILIATE CONTROLLED BY THE CORPORATION.—An entity shall be considered to be a 'subsidiary or affiliate controlled by the corporation' if the corporation owns 5 percent or more of any class of stock of the entity or if the corporation exercises control over a majority of the board of directors of the entity."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part VIII. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices."

(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(a) 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 redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) 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).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (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. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) 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 of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) 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, and

"(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, and

"(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 a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion 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 transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 404(a)(4) or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) 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—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—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 subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and

in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) INCREASED PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(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 '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) 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),

"(2) 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

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(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.—Subchapter B of chapter 63 (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 subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (S), by striking the period 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 III of subchapter A of chapter 61 is of such Code 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 68 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 reportable events (as defined in such section 6048) occurring 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.

SEC. 10502. 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 transferred 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) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) any obligation of a person described in subparagraph (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 the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust."

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) 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 GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such 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 paragraphs:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

"(4) TREATMENT OF FORMER UNITED STATES PERSONS.—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."

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(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 or appropriate to carry out the purposes of this section."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

"(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(ii) 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 distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee 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.

"(5) 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 in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income."

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 of such Code is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.— Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

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 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for

purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

"(6) PERIODS BEFORE 1996.—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 (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) 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—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, 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).

"(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) of such Code is amended by inserting

", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) 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 adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) PENALTY.—Section 1494 of such Code is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

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

Subtitle F—Limitation on Section 936 Credit

SEC. 10601. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Paragraph (4) of section 936(a) of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking subparagraph (A) and inserting the following new subsections:

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

"(I) the excess determined under clause (i), bears to

"(II) the QPSII assets of the possession corporation for such taxable year."

(b) PHASEDOWN OF CREDIT.—The table contained in clause (ii) of section 936(a)(4)(C) of such Code, as redesigated by subsection (a), is amended to read as follows:

"In the case of taxable years beginning in:	The percentage is:
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0."

(c) DEFINITIONS AND SPECIAL RULES.—Subsection (i) of section 936 of such Code is amended to read as follows:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall

not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is 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 income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) RELOCATED BUSINESSES.—

"(A) IN GENERAL.—In determining—

"(i) the possession corporation's qualified possession wages for any taxable year, and

"(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

"(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after October 12, 1995, or any addition after such date to an existing trade or business of such possession corporation unless—

"(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

"(ii) there is no reason to believe that such commencement or addition 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 treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(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 taxes paid or accrued to a possession of the United States by reason of subsection (c), such possession corporation shall be allowed 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 56(g)(4)(C) of such Code is amended by adding at the end thereof the following subclauses:

"(III) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(IV) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subformat:

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. 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:

Subtitle A—Permanent Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998,".

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking out ", and before October 1, 1998".

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out paragraph (11).

Subtitle B—Other Matters

SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a

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 is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital 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(3)(A) of this title).

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

"(A) with a compensable service-connected disability;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(2) In the case of a veteran who is not described in paragraph (1), 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(e) of such title is amended—

(A) in paragraph (1), by striking out "hospital care and nursing home care" in subparagraphs (A), (B), and (C) and inserting in lieu thereof "hospital care, medical services, and nursing home care";

(B) in paragraph (2), by inserting "and medical services" after "Hospital and nursing home care"; and

(C) by striking out "subsection (a)(1)(G) of this section" each place it appears and inserting in lieu thereof "subsection (a)(1)(F)".

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(2) of this section".

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title).":

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 30 percent or greater.

"(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

"(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section

1710(a) of this title, the Secretary shall, to 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(a) of this title, the Secretary—

"(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 considers 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 mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

"(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.

"1706. Management of health care: other requirements.".

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out "(c)", and

(ii) striking out "this section, sections" and inserting in lieu thereof "sections 1710,".

(2)(A) The heading of such section is amended to read as follows:

"**§ 1703. Annual report on furnishing of care and services by contract**".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"1703. Annual report on furnishing of care and services by contract.".

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

"(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "specialized medical resources" and inserting in lieu thereof "health-care resources"; and

(B) by striking out "other" and all that follows through "medical schools" and inserting in lieu thereof "any medical school, health-care provider, health-care plan, insurer, or other entity or individual";

(2) in subsection (a)(2) by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,";

(3) in subsection (b), by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.";

(4) in subsection (d), by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services";

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out "8153" and inserting in lieu thereof "8152".

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out "section 8154" and inserting in lieu thereof "section 8153".

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out "section 8153(a)" and inserting in lieu thereof "section 8152(a)"; and

(B) in subsection (b)(3), by striking out "section 8153" and inserting in lieu thereof "section 8152".

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out "section 8157" and "section 8153(a)" and inserting in lieu thereof "section 8156" and "section 8152(a)", respectively; and

(B) in paragraph (1), by striking out "section 8157(b)(4)" and inserting in lieu thereof "section 8156(b)(4)".

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.".

TITLE XII—LEGISLATIVE BRANCH

SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED FOR OFFICIAL ALLOWANCES OF MEMBERS OF THE HOUSE OF REPRESENTATIVES BE DEDICATED TO DEFICIT REDUCTION.

Of the funds made available in any appropriation Act for fiscal year 1996 or any succeeding fiscal year for the official expenses allowance, the clerk hire allowance, or the official mail allowance of a Member of the House of Representatives, any amount that remains unobligated at the end of such fiscal year shall be transferred to the Deficit Reduction Fund established by Executive Order 12858 (58 Fed. Reg. 42185). Any amount so transferred shall be in addition to the amounts specified in section 2(b) of such order, but shall be subject to the requirements and limitations set forth in sections 2(c) and 3 of such order.

Title XIII

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out "THROUGH 1998" the first place it appears and all that follows through "In the case of" the second place it appears

and inserting in lieu thereof "THROUGH 1996.—In the case of":

(2) by striking "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1993, 1994, or 1995"; and

(3) by striking out "September" and inserting in lieu thereof "March".

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103-335 (108 Stat. 2648) is repealed.

SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(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 law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 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 is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62.881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) 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 new disposal authority and is in addition to, and shall not affect, any other disposal 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.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(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;

(2) the term "health benefits plan" means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term "health-benefits coverage" means coverage under a health benefits plan;

(4) an individual shall be considered to be an "annuitant of an agency" if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term "Office" means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1996, each agency shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a "pay-as-you-go" basis), on or after the applicable effective date under paragraph (1), 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).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 13104. APPLICATION OF OMB CIRCULAR A-129.

The provisions of Office of Management and Budget Circular No. A-129, relating to policies for Federal credit programs and nontax receivables, as in effect on the date of enactment of this Act, shall apply as provided in that circular.

SEC. 13105. 7-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES.

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 2003."

(2) APPLICATION OF TAX.—Subsection (e) of section 59A (relating to application of environmental tax) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 2003."

(b) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking "December 31, 1995" and inserting "December 31, 2002".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

TITLE XIV—COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(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 "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(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	After December 31, 1969."

and inserting in lieu thereof the following:

7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.":

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½	After December 31, 1969."

and inserting in lieu thereof the following:

"7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.":

(C) in the matter relating to a Member for Member service by striking out

"8	After December 31, 1969."

and inserting in lieu thereof the following:

"8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.":

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

and inserting in lieu thereof the following:

"7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.":

(E) in the matter relating to a bankruptcy judge by striking out

8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.":

(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	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.":

(G) in the matter relating to a United States magistrate by striking out

"8	After September 30, 1987."

and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.":

and

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4).."; and

(ii) by adding at the end thereof the following new paragraph:

"(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) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

	"Percentage of basic pay	Service period
Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Law enforcement officer, firefighter, or air traffic controller.	7.5	Before January 1, 1996.
	7.75	January 1, 1996, to December 31, 1996.
	7.9	January 1, 1997, to December 31, 1997.
	8	January 1, 1998, to December 31, 2002.
	7.5	After December 31, 2002.

(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 204 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;

"(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.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (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; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION 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 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 (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 DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the 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 a Congressional employee or military service 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.

(2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

NOTICE OF HEARING

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, November 2, 1995, at 10:00 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss Medicare and Medicaid fraud.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 26, 1995 to conduct a mark-up of S. 1260, the Public Housing Reform and Empowerment Act of 1995. In addition, the committee will conduct a mark-up of pending nominations.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 26, 1995 at 9:30 a.m., in room 485 of the Russell Senate Building to conduct a hearing on S. 1327, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, AZ.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 26, 1995 at 9:30 a.m., in room 485 of the Russell Senate Building to conduct a hearing on S. 1341, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, AZ.

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

COMMITTEE ON THE JUDICIARY

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 26, 1995.

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

SPECIAL COMMITTEE ON AGING

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, October 26, at 9:30 a.m. to hold a hearing to discuss quality of care in nursing homes.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 26, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9 a.m. The purpose of this hearing is to receive testimony from academicians and State and local officials on alternatives to Federal forest land management. Testimony will also be sought comparing land management cost and benefits on Federal and State lands.

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

ADDITIONAL STATEMENTS

COMMERCE, JUSTICE, STATE APPROPRIATIONS

• Mr. ABRAHAM. Mr. President, I would like to take this time to explain my votes on various amendments to the Commerce, Justice, State appropriations bill which passed on September 29.

The Specter amendment sought to strike the language from this bill that prohibited the use of Federal funds for abortions for women in Federal prison except where the life of the mother would be in danger if the fetus were carried to term or in the case of rape.

The House and the Senate have repeatedly upheld the position that when taxpayer funds are used for abortions, the abortions should be restricted to those pregnancies which are the result of rape or incest or which pose a risk to the life of the mother. I do not think these restrictions should be expanded for women in prison and, therefore, I voted to table the Specter amendment.

Senator KERREY offered an amendment to provide $19.8 million for the National Telecommunications and Information Administration's information infrastructure grants by cutting a like amount from the Justice Department's travel account. I opposed this amendment for several reasons. First, many of the NTIA's duties are duplicative of those carried out by the Federal Communications Commission. The underlying bill moves us toward a unified telecommunications entity, and I believe it is the correct path to take. Second, the infrastructure grants are an unauthorized program that have little relation to the job of regulating the telecommunications industry. Legislation I have sponsored to terminate the Department of Commerce would also eliminate the advisory and grant making functions and transfer the management duties to the FCC.

I also opposed a Domenici amendment to eliminate provisions in the bill which would, in my opinion, vastly improve the Legal Services Corporation.

The Commerce, Justice, State appropriations bill in the Senate eliminated the Federal Corporation and block-granted to the States-Federal funds for the provision of legal services to the poor. The Domenici amendment to this bill would have restored the Federal Corporation and provides additional Federal funding for the Corporation.

I support eliminating the Federal Corporation and block-granting funds

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Senate

FRIDAY, OCTOBER 27, 1995

(Legislative day of Thursday, October 26, 1995)

ORDER OF PROCEDURE

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

Could the manager indicate when that might be available?

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

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

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

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

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

Mr. GRAHAM. To any attempt——

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

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate resumed consideration of the bill.

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

The legislative clerk read as follows:

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

Pending:

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

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

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

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

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

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

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

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

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

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

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

We have not had an adequate opportunity to evaluate and to understand

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

its significance. I am alerting the manager to my intention to protect the rights of those who have been waiting now for almost 18 hours to get a copy of this amendment. We have been denied that opportunity, and soon we will be asked to vote upon a stealth amendment which will quite likely be the most significant amendment on this most significant legislative enactment.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2978

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

Several Senators addressed the Chair.

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

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

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Reserving the right to object.

Several Senators addressed the Chair.

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

Mr. DOMENICI. Of course.

The PRESIDING OFFICER. The Senator from Nebraska.

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

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

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

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

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

We are ready to proceed with your amendment.

Mr. ROCKEFELLER addressed the Chair.

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

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

The PRESIDING OFFICER. Is there objection to withdrawing?

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

The PRESIDING OFFICER. Is there objection to withdrawing 2978?

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

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

Mr. GRAMM addressed the Chair.

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

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

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

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

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

The Senator from Texas.

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

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

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

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

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

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

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

The PRESIDING OFFICER. Is there further debate?

The Senator from Rhode Island.

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

The PRESIDING OFFICER. All time has expired.

The majority leader.

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

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

Mr. DOLE. I thank the Chair.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 518 Leg.]

YEAS—23

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

NAYS—76

Abraham	Bradley	Chafee
Akaka	Breaux	Cohen
Baucus	Bryan	Conrad
Biden	Bumpers	Coverdell
Bingaman	Burns	Craig
Bond	Byrd	D'Amato
Boxer	Campbell	Daschle

DeWine	Johnston	Pell
Dodd	Kassebaum	Pressler
Domenici	Kempthorne	Pryor
Dorgan	Kennedy	Reid
Exon	Kerrey	Robb
Feingold	Kerry	Rockefeller
Feinstein	Kohl	Sarbanes
Ford	Lautenberg	Shelby
Frist	Leahy	Simon
Glenn	Levin	Simpson
Gorton	Lieberman	Snowe
Graham	Lugar	Specter
Gregg	McConnell	Stevens
Harkin	Mikulski	Thomas
Hatfield	Moseley-Braun	Thurmond
Heflin	Moynihan	Warner
Hollings	Murkowski	Wellstone
Inouye	Murray	
Jeffords	Nunn	

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

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2979

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold.

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

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Kerry amendment.

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

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

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

It says:

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

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

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

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator has 30 seconds.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

[Rollcall Vote No. 519 Leg.]

YEAS—51

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

NAYS—48

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

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

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2980

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

The yeas and nays have been ordered.

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

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

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

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

Mr. MOYNIHAN. I object, Mr. President.

Mr. DOLE. That is another amendment.

Mr. MOYNIHAN. I withdraw that objection.

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

The amendment (No. 2980) was agreed to.

Mr. JOHNSTON. Mr. President. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2981

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

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

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

The PRESIDING OFFICER. The Senator from Kansas.

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

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

The PRESIDING OFFICER. The majority leader is recognized.

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

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

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

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. We yield back all time.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 520 Leg.]

YEAS—94

Abraham	Ashcroft	Bennett
Akaka	Baucus	Biden

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

NAYS—5

Brown	Helms	Roth
Grams	Nickles	

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

AMENDMENT NO. 2982

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

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

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

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

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

I now ask unanimous consent that a statement elaborating on each tax loophole, and the reasons for its elimination, which this omnibus amendment proposed to do, be printed in the RECORD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Proponents will also argue that capital is hard to come by in the oil and gas industry, and that small producers need to be protected. Of course, everyone who enjoys these kinds of tax breaks are going to try to couch

their plight in terms of being the embattled little guy. But that is not what this is about. This is mostly about special tax benefits being showered on large and small producers alike—even though there are somewhat different rules for each—in a single industry that has been consistently showing signs of profitability in recent years. While sometimes volatile oil markets make oil and gas investments risky, that doesn't necessarily justify this special treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This amendment eliminates outright the Puerto Rico subsidy, starting next year. In 1993, as we were preparing to consider the Reconciliation bill, I concluded that this tax credit should be phased out over a short period, given the other strains on the federal budget, and the need for further deficit reduction. While I was concerned that an immediate repeal might have too large and abrupt an impact on the economy of Puerto Rico, which was at the time reeling under a very high unemployment rate, I would have supported a prompt phase-out. While the 1993

Reconciliation Act did scale back somewhat the benefits provided to eligible companies under this provision, it failed to phase out the provision. And so now I think the time has come to repeal it outright, starting in 1996. That will put a stop to efforts by corporations who invest in Puerto Rico and the other U.S. Possessions to shelter profits and avoid paying their fair share of taxes.

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

Over the past several decades, as I have mentioned, several efforts were launched to try and bring the section 936 tax credit under control. Rules regulating the allocation of income derived from intangible assets were tightened, but to little avail. Additional loopholes were created, which allow companies to continue the long-established practice of shifting income derived from intangible assets created on shore to Puerto Rico. The 1993 OBRA bill took a step toward trying to reconfigure the section 936 credit as a wage-based credit by tying the amount of the credit, in many cases, to actual wages paid or investments made. But it also allowed corporations to receive the credit according to a generous alternative formula that continues to cost taxpayers billions per year. While this modest linkage between actual investments made and wages paid was a step in the right direction, it is still a credit that is no longer justifiable in this current budget crunch.

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

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

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

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

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

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

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

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

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

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

The huge Section 936 credit claimed by a number of U.S. pharmaceutical firms are a case in point. A GAO study requested by our colleague Senator Pryor revealed a number of shocking details. According to the GAO:

Since section 936 is intended to be an employment and economic development program for Puerto Rico, the GAO measured the tax credit provided companies for each employee. For pharmaceutical companies, the credit amounted to over $70,000 per employee—267 percent of the wages actually paid the average employee. One pharmaceutical company, Pfizer, received a tax credit equivalent to over $150,000 per employee—amounting to 636 percent of the typical wage paid to its Puerto Rican workers. Now I know that these outrageous disparities were mitigated somewhat by the 1993 changes in the formula, but the fact remains that this is a very inefficient economic development subsidy. And even the more recent GAO report done in 1993 found that the ratio of a firm's tax benefits per employee was still far higher than the total wages paid to these employees.

The time has come to pull the plug on this corporate welfare program. At the same time that historic huge cuts in Medicare and Medicaid are being made, at the same time we are slashing student loans and the earned income tax credit, at the same time that we are slashing economic development funding in our own cities and rural areas, we somehow find the funds to continue a multi-billion dollar tax credit of questionable merit and effectiveness, the prime beneficiaries of which are a small number of large, profitable drug companies.

Mr. President, continuing this credit for years while trying to balance the budget by 2002 is bad public policy. It is bad tax policy. It is bad budget policy. It cannot be allowed to stand, especially in the current budget climate. I urge my colleagues to support this amendment. I yield the floor.

ELIMINATE THE FOREIGN EARNED INCOME TAX EXCLUSION

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

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

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

Some will charge that by closing this tax loophole, by restricting this special interest tax break we are somehow proposing to raise taxes. They are wrong. What they fail to understand is that even with the reforms of the mid-1980's, which closed many of the most egregious tax loopholes, the presence of tax breaks in the current tax system forces middle class and working people to pay far more in taxes than they otherwise would have to pay. While some are paying less than their fair share in taxes because of this special tax subsidy for people working abroad, those

who work in the U.S. are being forced to pay more in taxes to make up the difference. Closing this tax loophole is not raising taxes.

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

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

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

"The impact of the provision is uncertain. If employment of U.S. labor abroad is a complement to investment by U.S. firms abroad—for example, if U.S. multinationals depend on expertise that can only be provided by U.S. managers and technicians—then it is possible that the exclusion has the indirect effect of increasing flows of U.S. capital abroad." [Tax Expenditures: Compendium of Background Material on Individual Provisions, Senate Budget Committee Print 103-101, December 1994, p. 22].

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

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

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

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

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

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

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

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

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

ELIMINATE CORPORATE WELFARE BY STRIKING RELAXATION OF ALTERNATIVE MINIMUM TAX

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

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

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

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

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

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

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

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

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

Mr. President, I believe reconciliation should be for reducing the deficit, not for giving more aid to dependent corporations in

the form of new tax breaks for wealthy individuals and big business. Corporations and wealthy individuals should not escape their fair share of the tax burden through tax shelters. In this day of severe budget cuts, when we are all asked to tighten our belts, we should not excuse the most wealthy of our country from that obligation.

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

During the debate on the balanced budget amendment, Republicans repeated over and over again that we need to balance the budget to provide for a better future for our children and grandchildren. But now that we have before us the actual plan for balancing the budget (which actually will do no such thing) we can see what they're offering everyone: a tax cut for the well off, and a higher bill for the middle class.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

[Rollcall Vote No. 521 Leg.]

YEAS—25

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

NAYS—73

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

NOT VOTING—1

Feinstein

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

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

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

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

The motion to lay on the table was agreed to.

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

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

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

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

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

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

I yield now to Senator EXON.

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

We are trying to get together, as the chairman has said, the definitive list on this side. We do not have a list of all

of the amendments that are proposed on the other side. This is a way to get that worked out. Numerous Senators have come to me and have said, "What plan should I make with regard to leaving Washington, DC, this weekend?" I said that is very, very much up in the air.

I would simply say that my best guess at the present time is that we have, as of now, a minimum—I emphasize the word "minimum"—on both sides of the aisle of somewhere around 50 individual separate amendments to be considered. Multiply that out. Even at a limited 10-minute timeframe, you can see we are talking about a minimum of 8 hours of steady voting, which should give everyone pause for consideration if they have any visions of leaving sometime this evening for obligations that they have elsewhere.

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

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

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

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

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

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

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

I thank the Chair.

Mr. GRAHAM addressed the Chair.

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

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

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

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

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

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

The PRESIDING OFFICER. All time has expired.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

AMENDMENT NO. 2983

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

There are 30 seconds to each side.

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

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

The Chair cannot hear the Senator from Arkansas.

The Senator from Arkansas is recognized for 30 seconds.

Mr. PRYOR. I thank the Chair.

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

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

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

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

The PRESIDING OFFICER. All time has expired.

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

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

The PRESIDING OFFICER. Is there objection to additional time?

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

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

Mr. DOMENICI. Yes. That is right.

Mr. PRYOR. I thank the Chair.

Mr. DOMENICI. Senators will see it shortly.

The PRESIDING OFFICER. Is all time yielded back?

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

The bill clerk called the roll.

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

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

[Rollcall Vote No. 522 Leg.]

YEAS—51

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

NAYS—48

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

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

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2984

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

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

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

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

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

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

The Senator from Nebraska.

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

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

Mr. GRAHAM addressed the Chair.

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

The Senator from Florida.

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

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

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

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

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

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

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

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

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

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

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

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

MODIFICATION TO AMENDMENT NO. 2984

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

I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The modification is as follows:

On page 18 of the amendment delete subtitle B.

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

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

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 523 Leg.]

YEAS—19

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

NAYS—80

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

So the amendment (No. 2984) was rejected.

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

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there objection?

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

Mr. DOLE. The last item?

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

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

The PRESIDING OFFICER. There is no time for debate.

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

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

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

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

Mr. DOLE. As quickly as we can.

The PRESIDING OFFICER. Is there further debate?

Is there any objection to the request of the Senator?

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

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

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

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

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

The PRESIDING OFFICER. The minority leader.

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

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

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

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

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

Mr. GRAHAM. Yes, there is objection.

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

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

The PRESIDING OFFICER. Is there an amendment to present?

The Senator from Pennsylvania.

AMENDMENT NO. 2985

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

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

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

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

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

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

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

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

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

Several Senators addressed the Chair.

Mr. DOLE. Yes, except the Roth amendment.

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

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

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I do not object. The

point is that, if an objection is made, there will be no time.

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

Is there an objection?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

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

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

I yield back the remainder of my time.

The PRESIDING OFFICER. Time is yielded back.

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

Mr. DOMENICI. In opposition?

The PRESIDING OFFICER. In opposition to the amendment?

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

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

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

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

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

The PRESIDING OFFICER. The majority leader.

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

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

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

Is there a request for the yeas and nays?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

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

[Rollcall Vote No. 524 Leg.]

YEAS—47

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

NAYS—52

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

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

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

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

Is there an amendment?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2992

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

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

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

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

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

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

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

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

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

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

"(b) For purposes of this section—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 2993

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

The PRESIDING OFFICER. The bill is open to amendment.

Is there an amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I send a technical amendment to the desk on behalf of the Banking Committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 2993.

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

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

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

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

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

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 2994

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

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

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

Mr. BYRD. Mr. President, I object.

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

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

Mr. DOLE. Withdraw the amendment.

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

Mr. DOMENICI. All right, let us proceed.

The PRESIDING OFFICER. Stop the reading.

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

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

So the amendment (No. 2994) was withdrawn.

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2988

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

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

The PRESIDING OFFICER. The bill is open to amendment.

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

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

The PRESIDING OFFICER. The amendment is at the desk.

Is the Senator from Montana calling up his amendment?

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

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

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

Mr. DOMENICI. OK, let us proceed.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

The PRESIDING OFFICER. Thirty seconds on each side.

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

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

The PRESIDING OFFICER. The Senator from New Mexico.

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

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I move to table.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. Yes, we yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOLE. Move to table.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 525 Leg.]

YEAS—51

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

NAYS—48

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

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

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to amendment.

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

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

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

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

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senators will clear the well.

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

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska is recognized for 30 seconds.

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

Mr. DOMENICI. Yes, it has.

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

The PRESIDING OFFICER. Yes.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2991

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2991.

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

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

The amendment is as follows:

On page 1469, strike lines 8 through 11, and insert the following:

"(a) ALLOWANCE OF CREDIT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Let me explain why Members should support the amendment.

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

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

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

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

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

I disagree. Let me take the arguments in turn.

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

Second, the budget deficit. The Office of Management and Budget has concluded that oil and gas development in the refuge would produce significantly less revenue than predicted by CBO. OMB looked at updated estimates of the amount of recoverable oil reserves. It looked at projected oil prices. And OMB concluded that drilling likely would generate only $850 million, 35 percent less revenue than predicted by CBO.

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

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

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

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

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

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

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

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

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

This raises the issue of the effect of development of ANWR on the economy. Under our present situation with the trade and budget deficits the economic argument is obvious. We need to open ANWR. There is no other conclusion. Leasing ANWR will benefit the economy in almost every aspect. It will reduce the budget deficit by bringing over $1 billion to the Treasury over the next 5 years. It will reduce the trade deficit by reducing our dependence on foreign oil. That money will remain at home to strengthen our own economy and provide good jobs to our own citizens, jobs that are now going overseas. These are jobs that we need. It will create over 75,000 directly related, high paying jobs in the oil industry. It will create as many as three quarters of a million new jobs, directly and indirectly, throughout the Nation. As a result of all of this, opening ANWR will stimulate other sectors of the economy as well. Without opening ANWR all of this will be lost. And our trade deficit will just get worse. We will be less able to pay our debts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Some would have us believe that this is just an economic issue. I would disagree based on the hundreds of letters and phone calls I have received from Marylanders who are concerned about opening this land to drilling. I have heard from the native people, both in the United States and Canada, whose culture and livelihoods depend on the caribou that breed within the confines of the refuge. Opening this precious land to oil drilling will wipe these timeless cultures out.

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

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

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

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

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

My concern arises on two levels: first, that the budget is assuming revenue from a pristine wilderness area; and second, that the revenue raised from drilling in this wilderness area

will not amount to be such a significant amount of money that it could easily be found elsewhere.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

As I have said in the past, I take seriously the national obligation embodied in the Alaska lands bill to ensure that these remote 19 million acres continue to achieve their purpose of providing a refuge for wildlife. There is no other place in America or in the world where caribou, polar bears, and wild geese flourish as they do in the Arctic National Wildlife Refuge. And, as we know from both history and recent scientific study, once one component of an ecosystem is adversely affected, then the entire system can become effected by a chain reaction.

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

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

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

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

Mr. President, last week, representatives of the petroleum, natural gas, automotive, ethanol, and engineering industries met in Washington at the World Conference on Transportation Fuel Quality to review the progress made in just the past few years with reformulating gasoline as required in the Clean Air Act Amendments of 1990. Today, approximately one-third of all the gasoline sold in the United States

contains noncrude oil-derived additives called oxygenates, primarily ethers and ethanol from grain. EPA has called the reformulated gasoline program the most significant automobile pollution reduction advance since the removal of lead. The pollution reductions achieved this year amount to the equivalent of taking 8 million cars off the road.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Alice Rivlin, Director of the Office of Management and Budget, stated in an October 25 letter that drilling in the Arctic Refuge would produce "significantly less revenue than has been scored by the Congressional Budget Office." New studies suggest there is less oil than previously thought, the price of oil as projected by the Department

of Energy has dropped and serious concerns remain about whether Alaska will stage a court battle to change their share of the revenue from 50 percent to 90 percent as the State claims its statehood act allows. Regardless of who is right, barreling ahead with incomplete information and short-term thinking is just plain poor energy policy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 526 Leg.]

YEAS—43

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

NAYS—56

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

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

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

AMENDMENT NO. 2995

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

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

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

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

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

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

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

(d) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

The amendment (No. 2995) was agreed to.

Mr. EXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

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

AMENDMENT NO. 2996

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

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

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

The clerk will report.

The legislative clerk read as follows:

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

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

Without objection, it is so ordered.

The amendment is as follows:

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

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

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

Mr. KENNEDY. That is fine.

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

Mr. DOMENICI. I move to table the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, at the suggestion of the majority leader, I ask that after this vote we have a quorum call to last until 1 o'clock, and that be for purposes of Senators getting some

relief from the floor and perhaps getting more of the amendments prepared so we can know what we are doing.

The PRESIDING OFFICER. That will be the order.

Mr. DOMENICI. I thank the Chair.

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 527 Leg.]

YEAS—52

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

NAYS—47

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

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

RECESS

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

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

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

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

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

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

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

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

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

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

The PRESIDING OFFICER. The Senator from Massachusetts.

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

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

POINT OF ORDER

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

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

The PRESIDING OFFICER. The point of order is sustained.

The Senator from Massachusetts.

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

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

The Senator from Massachusetts.

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

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

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

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

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

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

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

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

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

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

Mr. KENNEDY addressed the Chair.

Mr. DOMENICI. He has prevailed.

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

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

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

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

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

Mr. KENNEDY. I thank the Senator.

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

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

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

Mr. DOMENICI. Mr. President, I hope——

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I hope for purposes of management that Senators on our side would leave it up to one of us, either the leader or I, in terms of asking

that people be recognized or granted time. I understand the Senator, but I hope in the future the Senator will leave that up to us. He has prevailed. We had no intention of stopping him. So I think this matter is over. We yield back any time we might have had on the point of order. It has already been granted.

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

AMENDMENT NO. 3004

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

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. COCHRAN. Mr. President, this amendment helps farmers and markets adjust to the changes in Federal dairy policy in this bill. It does so by creating an export class for dairy products and establishing a farmer-financed mechanism to boost exports. It saves money and provides for research to make our products more competitive.

It will also grant the consent of Congress to the Northeast Interstate Dairy Compact, which is supported by all the Governors and legislatures in New England.

I urge Senators to support the amendment.

The PRESIDING OFFICER. The Senator's 30 seconds has expired.

Mr. JEFFORDS. Mr. President, I join my colleagues Senator COCHRAN, Senator LEAHY, Senator GORTON, Senator COHEN, and Senator SNOWE in supporting the creation of an export class for dairy products, and granting the consent of Congress to the Northeast Interstate Dairy Compact. This amendment is vital to the future of the New England dairy industry and the national dairy industry as a whole.

Mr. President, the Senate reconciliation bill cuts the cost of the dairy program by 49 percent over the next 7 years. This comes on top of a reduction of 69 percent in the last decade. While the dairy industry is willing to accept some cuts, and I realize the need to cut, the industry has already pulled its load. As it stands, this bill does not address the critical need to increase sales of butter and nonfat dry milk in the world market.

As the support price for butter and nonfat dry milk are eliminated, their prices will fall and cause a glut of those products. This surplus will either be cleared on the world market at a very reduced price, or be converted into cheese. In either case, this will case a substantial drag on the return to dairy farmers and manufacturers of these products. This amendment will expand U.S. dairy markets by providing a way for all producers to share the cost of moving those products to the export market. It is GATT-legal, plus will reduce U.S. reliance on export subsidies.

The Congressional Budget Office estimates that the conversion from powder to cheese will increase Commodity Credit Corporation purchases by $230 million. This amendment will help farmers and taxpayers—by ensuring dairy products will be exported instead of being purchased by the Government.

This amendment will also grant consent to the Northeast Interstate Dairy Compact, an agreement among the six New England States to create a commission that will have the authority to oversee the pricing for fluid milk produced in the New England region. The compact will not affect milk prices outside the compact region. In fact, it will act as a useful pilot project for other regions, and is strongly supported by many groups and individuals across the country.

Mr. President, the New England States have joined together to do what many States do already on their own. If America had grown from west to east I would not be standing here because New England would likely be one large State and would not have to ask for consent of Congress.

All six States' Governors-Republican, Democrat, and independent and their legislatures strongly support this amendment. On vote after vote this year we have acted to give more responsibility back to the States. Here is an opportunity for the Senate to do just that—in precisely the manner the Founders laid out in the Constitution.

Mr. President, the National Milk Producers Federation strongly supports this amendment as well as Mid-America, AMPI, Darigold, Milk Marketing Inc., and many other farmer cooperatives and dairy farmers from throughout the country. Supporting it is an opportunity to vote for 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 address export sales of butter and nonfat dry milk to the world market. Our amendment addresses this issue and according to CBO will save an additional $233 million in the next 7 years. These savings are in addition to $1 billion, the Government will save during the same 7 years by the elimination of dairy support for butter and nonfat dry milk.

This farmer funded class IV export program has the support of many, including; Darigold—80 percent of all Washington State producers, National Milk Producers Federation, Mid-America Dairymen, Milk Marketing Inc., AMPI, American Farm Bureau, Kansas Dairymen Association, Utah Dairymen Association, NE Council of Farmer Cooperatives, Michigan Milk Producers Association, Florida Dairy Farmers Association, Dairlylee Cooperatives, United Dairymen Association, Western Dairymen Cooperatives, and a legion of other farmer cooperatives and dairy farmers across the country.

In closing, Mr. President, I urge my colleagues to vote in favor of this amendment.

Ms. SNOWE. Mr. President, I am pleased to be a cosponsor of the amendment offered by the gentleman from Vermont, and I rise in strong support of the amendment.

Family dairy farms are facing hard times across the country, and this amendment is designed to assist these farmers while protecting the interests of the taxpayers and consumers.

The Jeffords amendment does two things. First, it creates a class IV pool for nonfat dry milk and butter. This pool will help to offset the financial impact on farmers of the reconciliation bill's repeal of the price support program for these two products. The new pool would be GATT-legal, allowing a greater volume of U.S. butter and nonfat dry milk to be exported than would be the case if we do not create the new pool. In short, the class IV pool will help farmers maintain their incomes without increasing Federal expenditures.

Mr. President, the second provision of the amendment provides the consent of the Congress to the Northeast Interstate Dairy Compact. Like the class IV proposal, the compact is designed to help family dairy farmers survive in a very difficult market environment. But unlike the class IV proposal, the compact does not involve the Federal Government. It represents a regional, State-based solution to a regional problem, and the Federal Government need only give its assent and then step out of the way.

Today, New England is practically bleeding dairy farms. In Maine, for instance, we have lost more than 200 farms since 1988, and this number would have been far higher if Maine

had not instituted a dairy vendor's fee to help stabilize farm income. Unfortunately, that vendor's fee has been invalidated by a Federal court, and farmers are exceedingly vulnerable once again.

The decline in New England's dairy farms can be attributed to low and volatile dairy prices under the Federal marketing order program that do not reflect the costs of production in the region. Because New England farmers sell much of their milk in the fluid milk market, they face substantially higher costs to get their milk to the plant, and they do not have access to subsidized electricity like farmers in some other parts of the country. Consequently, New England's dairy farmers receive some of the lowest mailbox prices of any dairy farmers in the country.

In response to this farm crisis, the six New England States negotiated an interstate compact in 1993 that allows them to add, if they choose, an additional increment to the Federal marketing order price in the New England region. These increments would have to be approved by a commission created under the compact which consists of representatives from each of the New England States, and which includes both producer and consumer interests.

Mr. President, this compact is a regional solution to a regional problem in the most literal sense. With very few exceptions, it affects only the consumers, farmers, and dairy processors of New England. The compact applies only to fluid, or class I, milk, and 97 percent of the fluid milk consumed in New England is processed by New England-based processors.

Approximately 75 percent of the milk processed by these processors comes from New England farmers. The remainder comes from New York, whose farmers would receive the same prices for their milk under the compact as farmers in New England.

Although the compact only affects the participating States, the cosponsors of the amendment have included explicit assurances to remove any doubt. These assurances further clarify that the compact only applies to class I fluid milk, that no new States can join the compact without the formal approval of both Houses of Congress, that out-of-region farmers who sell milk in the compact region will get the same price as New England farmers, and that the compact commission will take active measures to prevent increases in production.

Mr. President, the Jeffords amendment is profarmer, protaxpayer, and pro-States' rights. It will help to ensure that good farmers have a reasonable chance to stay in business, but at less cost to the Federal Government. I urge my colleagues to support the amendment.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to the amendment offered by Senator COCHRAN to grant the consent of Congress to the Northeast Interstate Dairy Compact and to create a class IV pricing system for milk used to make butter or powder.

Both of these provisions would take dairy policy in the opposite direction in which congressional reformers are attempting to take all agricultural policy—this amendment provides more market intervention, more regulation, and more inequity.

It is unfortunate that the major changes that this amendment makes and the enormous precedent that it sets will not be fully debated by this Chamber. I am certain that few Members of this Chamber will have an opportunity to actually learn and understand just what it is they are voting on. I am also certain that this amendment will be approved.

This amendment balkanizes the U.S. dairy industry by insulating the Northeast dairy industry from the market conditions that all other farmers in this country must face.

This amendment will provide congressional consent to an interstate compact, the like of which has never been approved by the Congress. It is, Mr. President, unprecedented.

This compact will allow a Commission in the Northeast to set fluid milk prices artificially high for the six States in the compact. It allows dairy farmers in six States in the Northeast to enjoy higher prices for their milk, erects barriers to keep out lower cost milk from outside the compact walls, and will result in lower prices for producers in the rest of the United States.

The compact would allow for an increase in the fluid milk differential up to $17.40 per hundred pounds of milk, or in terms of gallons—$1.50 per gallon. This is well over $3 greater than the price producers in the New England order enjoy currently for fluid milk.

However, the compact we are being asked to approve also allows that price to be increased with inflation, as measured by the CPI, since 1990. By the year 2,000 the cap could be well over to $20 if inflation increases by 3 percent per year.

With those kinds of price increases, we can expect producers in Vermont and elsewhere to increase their milk production in response to those higher prices. And, Mr. President, as far too many dairy farmers know, production increases in one region of the country drive down milk prices for producers throughout the Nation.

One might ask why producers in the Northeast should be allowed to have their milk prices adjusted for inflation each year, when that privilege is given to no other commodity in any other region. One might ask why we should allow one region of the country to increase consumer costs when virtually every other effort in this Congress has attempted to eliminate the burden on consumers from overly regulatory agricultural policies.

We must ask, why should the Congress grant its approval to the Northeast Interstate Dairy Compact?

The answer is that Congress should not provide its consent for an interstate price fixing compact.

The supporters of this amendment have tried to present this as a very simple idea—that of a simple interstate compact designed to help the struggling producers of that region in isolation from national markets and having no effects on non-compact producers.

But, Mr. President, producers in the upper Midwest have learned through painful lessons that regional changes in milk prices have national effects and national implications.

The Northeast Dairy Compact is not a simple proposal. It is not an innocuous interstate compact isolated to the participating States and it will have national implications.

Mr. President, it is time to remove the artificial fluid milk price differentials that discriminate against certain regions to the benefit of others, distort markets, and cost consumers millions of dollars in food costs annually—It is not time to enhance them.

I would urge my colleagues to think seriously about whether or not this body wishes to endorse price-fixing compacts of any nature.

The precedent that congressional approval of the Northeast Interstate Dairy Compact would set is very serious indeed—we will be allowing a small group of States to fix prices for a product produced and marketed nationally.

The second half of this amendment establishes a class IV pricing system which benefits a few producers on the other coast of the United States—the west coast powder-producing States, to the detriment of producers elsewhere. This class IV pricing system is not necessary for the U.S. dairy industry to expand exports. I have 30,000 dairy farmers in Wisconsin that want to expand exports and are planning to do so, but Wisconsin dairy producers oppose class IV pricing.

Why? Because it forces them to pay a tax to support producers on the west coast. In fact, producers throughout the country will likely pay a minimum of 15 cents per hundredweight to help producers on the west coast continue to overproduce milk powder which will no longer be supported by the Federal Government which is no longer demanded by the domestic market. I would urge my colleagues to look with a skeptical eye on projections that this amendment will greatly enhance producer revenues to compensate for powder tax that all producers will pay. If such projections were realistic, the thousands of milk producers in the upper Midwest—the heart of this Nation's dairy country—would be embracing this proposal, not opposing it.

Mr. President, this amendment provides help to producers in eight States—the six Northeastern States that will benefit from the Compact, and two west coast States that will benefit from the class IV system. All other producers in between are the big losers.

I urge my colleagues to oppose this amendment. It creates more regulation, more market distortions, and discriminates against all but a few producers in the country. Mr. President, this is bad policy.

Mr. KOHL. Mr. President, it is difficult for me to oppose my friends from the Northeast in their efforts to help the dairy farmers of that region. But it is on behalf of the dairy farmers of my State that I feel that I must. Not only because I believe his compact will have a negative effect on the dairy farmers of regions outside the northeast, but also because I believe it to be a inappropriate method of addressing the problems of the dairy industry, which are national in nature.

This measure is a regional compact. It is an effort by six Northeastern States to require artificially increased milk prices for the farmers in those States exclusively. It is at its heart anticompetitive, and I believe that it is market distorting.

The sponsors of this measure claim that the Northeast is an island unto itself, and that this compact will not affect any other region. I believe that that statement ignores the complexities of dairy markets, which are national in nature.

To predict the exact effects of the compact on other regions is nearly impossible. But to assume that there will be none is to turn a blind eye to the history of agricultural policy.

My region of the country, the upper Midwest, has learned this lesson all too well. We, in this region, have seen our dairy industry become the victim of unforeseen market distortions caused by the milk marketing order system. This system, which was instituted in the 1930's requires that higher minimum prices be paid to producers the farther they are from Wisconsin. Since the upper Midwest was the traditional hub of dairy production, the purpose of this regional discrimination was to help dairy industries outside the upper Midwest develop, so that every region could have a locally produced supply of fluid milk.

But that goal has been largely accomplished, and the policy that was intended to give other regions an artificial "leg up" over the upper Midwest, is now contributing to the decline of dairy farming in the upper Midwest.

But make no mistake about it. This debate is not only about the upper Midwest. And it is not only about dairy policy. This debate is about the future direction of all agricultural policies.

I and many of my colleagues from farm States have been willing to promote farm programs that we believe will provide a safety net to farm prices, to help provide some security for the family farmers of this Nation.

But the Northeast Dairy Compact goes beyond anything ever done in a farm bill. And it goes far beyond any other regional compact presented to the Congress for approval.

It is the product of one region's frustration with national policies, and an effort by that region to remove themselves from that national system and establish a regional dairy policy.

So why is this compact before the Senate? The answer is that the Northeast needs Congress' approval in order to interfere with interstate commerce.

The commerce clause of the U.S. Constitution makes it clear that States cannot infringe on interstate commerce. Court case after court case has turned down efforts be individual States to do so. Most recently, in the 1994 West Lynn Creamery, Inc versus Healy decision, the Supreme Court turned down a Massachusetts milk pricing policy that would have artificially increased the price of milk sold in Massachusetts in order to bolster the dairy farmers of that State alone. The Supreme Court turned down that effort as being a clear violation of the commerce clause of the Constitution. At that time, even the State of Vermont argued in opposition to the Massachusetts effort, claiming that it was "economic protectionism that burdens interstate commerce by interfering with competition."

But now all six Northeastern States have banded together to do something very similar to what Massachusetts tried to do on its own, and that it to artificially increase milk prices in that region for the benefit of the farmers in that region, and to protect their higher milk price by placing a protectionist tariff on all milk coming into the region 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 cleaver in getting around that question by packaging the pricing scheme as a compact.

The Constitution allows States to enter into a compact with other States, as long as those compacts are approved by Congress. This authority has been used many times, without controversy, by States that seek to address multistate environmental or transportation concerns. But it has never been used to allow States to engage in price-fixing activities. And it has never been used as a way to circumvent the commerce clause of the Constitution.

Make no mistake about it. This compact is unprecedented in the history of the Nation.

While the context of this compact may be milk pricing, its ramifications are far more significant. Congressional approval of this compact is an invitation for all sorts of economic balkanization.

Our forefathers had the foresight to see the dangers of allowing States and regions to erect economic barriers against other States in the Union. They asked the question "What are we, as a nation, if we do not have a unified economic market?"

Last year, when the Northeast Dairy Compact was considered in the Senate Judiciary Committee, many of my colleagues raised constitutional concerns with the compact.

Senator HATCH commented on this matter. He stated:

I am afraid that this is the kind of precedent-setting compact that will lead other States to seek the same type of protection, to the economic detriment of all their bordering States. More importantly, I would expect that other industries will line up seeking compacts as a means of protecting their particular States' interests, and we just can't go down that route.

On the same matter, Senator THURMOND stated:

I believe that Congressional approval of this compact would set a bad precedent. Approval would encourage other regions of our country to form compacts to assist regional producers in a variety of industries at the expense of those outside the region. A breakdown of our nation into regional cartels and economic infighting would be very harmful and should be opposed.

At that same mark up in the Judiciary Committee last year, Senator GRASSLEY stated:

Historically, these compacts have dealt with border issues, environmental cooperation, and other subjects limited to the member States not having an impact on the rest of the country. . . . Without Congressional approval, I believe that the compact would be unconstitutional. Clearly, if one of the States in the compact enacted State legislation along these lines, the Commerce Clause would be violated. Protection of in-state industry against out-of-State industry is prohibited. I think that we should be very hesitant to allow a group of States to do what a single State could not do under our Constitution.

And lastly, my good friend from Illinois, Senator SIMON added:

I tend to agree with Senator GRASSLEY that this [Compact] is probably constitutional. . . . But what it constitutional is not necessarily wise.

Mr. President, the Senate Agriculture Committee has already started the debate on the reauthorization of national farm programs through the 1995 farm bill. It is my sincere hope that as we begin that debate, we can craft dairy policy changes that are beneficial to all the dairy farmers of this country, not just those of one region.

I too want to help the farmers of this Nation. But I firmly believe that the Northeast Dairy Compact is the wrong approach.

Another provision of this amendment authorizes a class IV price for milk. The rationale for this provision is that since the Senate Agriculture Committee eliminated the price support for milk powder and butter, the prices for those products will fall to world prices. However, the problem is that the class IV price would merely create a tax on all dairy farmers nationwide, to be transferred to the farmers in those few States that have excess milk production, and put that excess milk into butter and powder. In short, this imposes a butter/powder tax on the dairy farmers of all States, to be transferred to the dairy farmers of those States producing those products.

I urge my colleagues to join me in strong opposition to this compact and the class IV pricing provisions.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I raise a point of order against the amendment offered by the Senator as not being germane.

Mr. STEVENS. Will the Senator use his microphone. We cannot hear him.

Mr. EXON. Mr. President, I raise a point of order against the amendment offered by the Senator on the basis it is not germane.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 65, nays 34, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—65

Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Gorton	McConnell
Biden	Graham	Mikulski
Bond	Gramm	Moynihan
Boxer	Gregg	Murkowski
Breaux	Heflin	Murray
Bryan	Helms	Nunn
Bumpers	Hollings	Pell
Burns	Hutchison	Pryor
Byrd	Inhofe	Reid
Campbell	Inouye	Robb
Chafee	Jeffords	Rockefeller
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Shelby
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerry	Stevens
Daschle	Leahy	Thomas
Dodd	Lieberman	Thurmond
Domenici	Lott	Warner
Faircloth	Lugar	

NAYS—34

Abraham	Frist	Moseley-Braun
Bennett	Glenn	Nickles
Bingaman	Grams	Pressler
Bradley	Grassley	Roth
Brown	Harkin	Santorum
Coats	Hatch	Simon
Conrad	Hatfield	Simpson
DeWine	Kerrey	Specter
Dole	Kohl	Thompson
Dorgan	Kyl	Wellstone
Exon	Lautenberg	
Feingold	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the amendment.

The amendment (No. 3004) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, it is our turn to offer an amendment. I yield to the Senator from New Jersey 30 seconds for the purpose of explaining and introducing his motion.

MOTION TO COMMIT

Mr. LAUTENBERG. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

Mr. LAUTENBERG. Mr. President, this is a fairly simple motion. It is to recommit, to cut the tax breaks for those who make over a million dollars a year, and to have the savings that occur apply to reduce the cuts that are contemplated in Medicare and Medicaid. I hope that we can finally reach a point at which we say across the board here that at some point we are not going to give tax breaks to those with the enormous incomes. We are talking about a million dollars a year on this.

The PRESIDING OFFICER. The time of the Senator has expired.

AMENDMENT NO. 3005 TO THE LAUTENBERG motion to commit

(Purpose: To provide a $5,000 tax credit for the adoption of a child)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3005 to the Lautenberg motion to commit.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment:

At the end of the bill, add the following title:

TITLE XIII—CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as)—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995.

AMENDMENT NO. 3006 TO AMENDMENT NO. 3005

(Purpose: To provide a $5,000 tax credit for the adoption of a child)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3006 to amendment No. 3005.

Mr. CRAIG. Mr. President, this is a very important, yet understandable amendment. It changes the adoption tax credit of $5,000, and we are offering this in this reconciliation package to an effective date of January, and I believe the second-degree moves it to February 1995.

Mr. KENNEDY. Parliamentary inquiry; could we have a reading of the second-degree amendment? Was it waived?

The PRESIDING OFFICER (Mr. GORTON). The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. CRAIG. I ask unanimous consent reading of the amendment be dispensed with.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. Mr. President, I believe under the agreement we have 30 seconds to respond to this amendment. For that purpose——

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by

section 12001, is amended by inserting after section 23 the following new section.

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

Mr. EXON. Mr President I yield the 30 seconds of our time to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, what is happening here is quite clear: Instead of just letting us vote on whether or not the other side is willing to accept some level at which we are saying we will not give tax breaks to those individuals, instead we are going to try to keep the cuts in Medicare and Medicaid from being as high as they are.

Why, I do not understand, why can we not simply have a vote on it? I think by not permitting a vote they are absolutely voting on the Republican side. They are saying that we are not even going to cut off our friends who make $1 million a year or more.

I hope we can get to a vote on my amendment, Mr. President.

Mr. DOMENICI. Mr. President, the fact is that the tax bill before the U.S. Senate, 90 percent of the tax cut goes to Americans earning $100.000 or less. That is the fact.

This is a political amendment. We have a right to offer second degree and when we find amendments like this we will do that.

The PRESIDING OFFICER. All time is expired on the second-degree amendment.

AMENDMENT NO. 3007 TO AMENDMENT NO. 3005

Mr. LAUTENBERG. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3007 to amendment No. 3005.

Strike all after instructions and insert the following: "to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid."

Mr. DOMENICI. Mr. President, we have not seen the amendment.

Mr. LAUTENBERG. Mr. President, if the manager would permit me, it is exactly the same as the amendment that I sent up originally, and I am asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Can we substitute for this amendment?

The PRESIDING OFFICER. No further amendments are in order.

Mr. DOMENICI. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—55

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Nunn
Burns	Hatch	Pressler
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lieberman	Thurmond
Domenici	Lott	Warner
Faircloth	Lugar	
Frist	Mack	

NAYS—44

Akaka	Feingold	Levin
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Specter
Dorgan	Lautenberg	Wellstone
Exon	Leahy	

So the motion to lay on the table the amendment (No. 3007) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3005

The PRESIDING OFFICER. The question occurs on amendment No. 3005.

The majority leader.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Could you get a little order?

Mr. LAUTENBERG. Can we have order in the Senate please. Mr. President?

Mr. DOLE. Mr. President, is it appropriate to withdraw the amendment at this time?

The PRESIDING OFFICER. The Senate is not in order. Members cannot hear.

Mr. DOLE. We withdraw the amendment.

The amendment (No. 3005) was withdrawn.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, I am trying to find out what they desire to do at this point.

Mr. LAUTENBERG. Mr. President, if I am given the floor for a moment——

Mr. DOMENICI. I yield part of my time.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to withdraw my motion to commit.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

The motion was withdrawn.

Mr. DOMENICI. I think Senator NICKLES is ready for an amendment on our side.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 3008

(Purpose: To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself, Mr. DOLE, Mr. ROTH, Ms. SNOWE, and Mr. CHAFEE, proposes an amendment numbered 3008.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1332, beginning with line 5, strike all through page 1336, line 17.

Mr. NICKLES. Mr. President, this amendment I send to the desk on behalf of myself, Senator DOLE, Senator ROTH, Senator SNOWE, and Senator CHAFEE is an amendment that would eliminate section 7573, which would require States to collect an annual amount equal to a $25 application fee and 6.6 percent of collections for non-AFDC families, if they use child support enforcement services.

I think this provision should not have been in the bill. I mentioned that

during the Finance Committee hearings. I have worked with the majority leader, and, also, Senator ROTH says this section should be stricken. That is what this amendment would do.

The Governors strongly support this amendment. They do not think that they should be mandated to have the child support enforcement check fees in this bill. I agree.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, here we are. I am fearful. I am making inquiry. Are we violating the agreement that we should have a copy of this amendment? I thought we had agreed earlier they had been filed.

Mr. NICKLES. Mr. President, the question was asked, Is this a 10-percent tax? My colleague from New Jersey raised this as well. Originally, this was a 10-percent tax. I think the committee made adjustments and made it 6.6 percent. I happen to agree with him that even at 6.6 percent, the tax is too high.

Also, Mr. President, I ask unanimous consent Senator CHAFEE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. We are eliminating the 6.6-percent tax.

Mr. DOMENICI. We do not need a vote.

Mr. EXON. It would appear to me, with the 30 seconds that I have on this side of the aisle, that as of now this Senator has not been advised that there is any opposition to this matter on this side.

Evidently, we have found this was given to us in a different order.

Does anyone wish to oppose?

Mr. BRADLEY. As I understand it, the amendment offered by Senator NICKLES is the exact content of the amendment that I was going to offer. So I have no opposition.

Mr. EXON. Hearing no objection on this side, I yield back the remainder of my time and suggest possibly this could be voice voted.

The .PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 3008) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the next amendment that we have agreed to consider would be by the Senator from New York. I yield the required time allotted to us to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Might we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Chair asks that conversations be taken off the floor.

Does the Senator from New York have an amendment at the desk?

AMENDMENT NO. 3009

(Purpose: To strike the reduction of indirect medical education payments to teaching hospitals)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 3009.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 541, strike line 10, and all that follows through page 542, line 8.

Mr. MOYNIHAN. Mr. President, this amendment would strike the 40-percent reduction in indirect medical education payments in the reconciliation bill and restore $9.9 billion to teaching hospitals in the years 1996 to 2002. This reconciliation bill seriously threatens the future of medical research, physician training and care for the indigent. Teaching hospitals are a national treasure. To abandon them now would be a tragedy.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this amendment adds $9.9 billion to the deficit. In the Finance Committee bill, $1.7 billion is added back to this. I think we ought to table this amendment and move on to the next one.

Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from New York. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 530 Leg.]

YEAS—51

Abraham	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Bennett	DeWine	Helms
Bond	Dole	Hutchison
Brown	Domenici	Inhofe
Burns	Faircloth	Jeffords
Campbell	Feingold	Kassebaum
Chafee	Frist	Kempthorne
Coats	Gramm	Kyl
Cochran	Grams	Lott
Cohen	Grassley	Lugar
Coverdell	Gregg	Mack
McCain	Roth	Stevens
McConnell	Shelby	Thomas
Murkowski	Simpson	Thompson
Nickles	Smith	Thurmond
Pressler	Snowe	Warner

NAYS—48

Akaka	Ford	Lieberman
Baucus	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Santorum
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Specter
Feinstein	Levin	Wellstone

So, the motion to lay on the table the amendment (No. 3009) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3010 THROUGH 3014, EN BLOC

Mr. DOMENICI. Mr. President, I am going to send to the desk, with the full concurrence of the ranking member and no objection that I am aware of, six amendments en bloc. Let me just list them: a Dole-Kohl-Grassley amendment with reference to truckers that has been agreed to on both sides; the Hutchison amendment that we had a little while ago that was withdrawn—it has been cleared on both sides—a Senator D'AMATO sense of the Senate.

Mr. BYRD. That amendment has not been cleared on both sides. I have just been talking with Mrs. HUTCHISON.

Mr. DOMENICI. We withdraw it. I say to Senator HUTCHISON, that has not been cleared on their side.

Senator D'AMATO has an amendment cleared on both sides, a sense of the Senate; Senator GRASSLEY has one with reference to an advisory task force; Senator BOXER has one on no pay—what do you call it, I say to the Senator?

Mrs. BOXER. No pay. We already passed it.

Mr. DOMENICI. We already passed it. Senator GRAHAM, an amendment to ensure Medicare beneficiaries have urgent Medicare treatment. We have no objection to it.

I send all five to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. I ask they be reported en bloc and accepted en bloc.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 3010 through 3014, en bloc.

The amendments, en bloc, are as follows:

AMENDMENT NO. 3010

(Purpose: To increase the deductibility of business meal expenses for individuals subject to Federal limitations on hours of service and to provide offsetting revenues)

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. KOHL. Mr. President, the amendment that I am offering with Senator DOLE will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers, and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

Mr. INOUYE. Mr. President, I understand Senator KOHL is expected to offer an amendment that would restore the business meals deduction from 50 to 80 percent for workers using Department of Transportation [DOT] hours-of-service regulations. The amendment specifically targets only the segment of middle-income Americans who, due to the nature of their employment, must eat away from home. Such individuals include truckers, busdrivers, and some railworkers. The deduction for business meals and entertainment expenses was reduced from 80 to 50 percent under the Omnibus Budget Reconciliation Act of 1993 and went into effect on January 1, 1994.

I support Senator KOHL'S efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. However, I strongly believe that the amendment should go further than the transportation segment of the population. I, along with Senator HATCH and others, have introduced S. 216, which would restore the business meals deduction to 80 percent of all industries.

The restoration of this deduction is essential to the livelihood of the food service, travel and tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of this reduction. All are major industries employing millions of people, many of whom are already feeling the effects of the reduction.

Contrary to what many might believe, most individuals who purchase business means are small business persons: 70 percent have incomes below $50,000, 39 percent have incomes below $35,000, and 25 percent are self-employed. Moreover, 78 percent of business lunches and 50 percent of business dinners are purchased in low to moderately priced restaurants. The average amount spent on a business meal, per person, is about $9.39 for lunch and $19.58 for dinner. The business meal deduction is hardly the exclusive realm of the fat cats.

Again, I commend Senator KOHL for his efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. I urge my colleagues to also support my bill, S. 216, which would restore the business meals deduction to 80 percent for all industries.

AMENDMENT NO. 3011

(Purpose: Expressing the sense of the Senate regarding the tax treatment of conversions of thrift charters to bank charters)

At the end of chapter 8 of subtitle I of title XII, insert:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

Mr. D'AMATO. MR. President, this sense-of-the-Senate resolution would express the will of the Senate that Congress should eliminate a significant disincentive in the current law which prevents thrift institutions from changing their charters. It also prevents thrifts from diversifying into other lending opportunities. Given developments in financial institutions and the debate in Congress over the future of the thrift industry, it is desirable for Congress to seriously examine this aspect of the tax law that applies only to thrifts.

AMENDMENT NO. 3012

On pages 764 and 765, section 2106, Medicaid Task Force, under subsection (c) "Advisory Group for the Task Force" and new number (14) to read:

"(14) AMERICAN OSTEOPATHIC ASSOCIATION.

Redesignate old (14) to be (15); redesignate old (15) to be (16); redesignate old (16) to be (17); redesignate old (17) to be (18).

AMENDMENT NO. 3013

(Purpose: To provide that Members of Congress and the President shall not be paid during Federal Government shutdowns

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

Mrs. BOXER. Mr. President, this amendment is identical to one offered to the D.C. appropriations bill that passed the Senate unanimously and was cosponsored by both the majority and minority leaders, among others.

Because this issue is so important and because the D.C. bill appears to have stalled in the House, I believe it is important for the Senate to revisit this proposal.

Under my amendment, if there is a lapse in appropriations for any Federal department or agency or if the Government is unable to operate because of a default caused by a failure to raise the Federal debt ceiling, the pay for Members of Congress and the President will be docked.

I believe this legislation is important for two key reasons:

First, it will help avert the predicted Government shutdown by helping Members of Congress understand the fear and uncertainty now being felt by the millions of Americans who rely on Government services.

Second, it codifies a principle that all other workers in America live by: If you do not do your job, you should not get paid. One of Congress' most important functions is to pass the Nation's budget. If we fail in that critically important task, it simply makes sense that our pay should be docked.

Mr. President, this amendment makes common sense, and I thank the managers for accepting it.

AMENDMENT NO. 3014

(Purpose: to ensure medicare beneficiaries have emergency or urgent care provided and paid for by medicare choice plans by establishing a definition of an emergency medical condition that is based upon the prudent layperson standard)

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization for the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

Mr. EXON. Mr. President, I yield back all time assigned to us.

Mr. DOMENICI. I yield back any time I have.

The PRESIDING OFFICER. The question is on agreeing to the amendments numbered 3010 through 3014, en bloc.

The amendments (Nos. 3010 through 3014, en bloc) were agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, could I yield myself 1 minute for a discussion with the Senators?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I think we sort of set a pattern here. If the Senators could look at the remaining amendments—I say this to both sides; we will do it on ours—if the Senators could look at theirs, maybe they could package them with reference to subject matter. If the Senators package them with reference to subject matter, then we might get five amendments all of which deal with the subject. We think we know how they are going to turn out, but that is not terribly relevant. We could offer them en bloc.

Mr. BYRD. Mr. President, I hope that we will be careful that we do not try to streamline this silly process further. Now we are really flying deaf, dumb, and blind. So I hope we will look at these so-called packages with four or five amendments. I want to see them.

I am not going to set myself up as a traffic cop, but this process is just entirely out of control. We do not know what we are voting on now. Now we are just voting on amendments. They do not know what is in this bill.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOMENICI. Mr. President. I want to thank Senator BYRD for his concern. We discussed this concern on the whole process, and, hopefully, this is the last time we will have it under this process. We should change it. But I have to get a bill through under this process. We will be as careful as we can. If we need to, we will certainly consult with a broad array of Senators before we proceed.

Is another amendment ready?

Mr. EXON. Mr. President, whose turn is it?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I recognize the Senator from Connecticut for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and I thank my friend from Nebraska.

LIEBERMAN MOTION TO COMMIT

Mr. LIEBERMAN. Mr. President, I have a motion at the desk which I offer on behalf of myself, and Senators DASCHLE, HARKIN, GRAHAM, ROCKEFELLER, BREAUX, and KENNEDY, who are members of a Medicare working group.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], moves to commit the bill to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, with the following amendment, and to make sufficient reductions in the tax cuts to maintain deficit neutrality.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, the purpose of this amendment is to restore the solvency of the Medicare part A trust fund for the next 10 years and then to go on, beyond dealing with that immediate, obvious deficit looming, to reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plan options available, providing better information so that beneficiaries can act as informed consumers, and to require planning and action for the changes that will come with the retirement, later in the first decade of the next century, of the baby-boom generation.

This is a constructive Medicare alternative.

Mr. President, what we have here is a missed opportunity. Democrats and Republicans agree generally that there are some problems with the Medicare Program that we must address:

Problem No. 1. Our Republican colleagues argue that the Medicare Program must be saved from impending bankruptcy in the part A trust fund. Democrats agree that we must act to restore the solvency of the part A trust fund. The Health Care Financing Administration's Actuary tells us that it will take $89 billion in spending reductions to assure solvency through the next 10 years—through 2006. Democrats have put forward a strong proposal that would do this in a fair manner. It has been scored by CBO and achieves solvency for at least the next 10 years.

Problem No. 2. The rate of increase in the cost of the Medicare Program is unsustainable at 10 percent each and every year. We all agree that this problem must be dealt with. Democrats and Republicans have both put forward proposals that begin to bring competitive market forces into the Medicare Program. I would argue that the Democratic proposal is much stronger in this regard. We would strongly move the Medicare Program toward competitive bidding among the private health plans participating in Medicare. We would also tie rates of increase in payments to private health plans to the private sector market place, rather than to arbitrary budget targets. Ultimately, I am convinced that competition among an expanded range of private health plans serving Medicare patients will be the key to reducing long term rates of growth in the Medicare Program.

We recognize that the Medicare Program is 30 years old and is showing signs of its age. We have proposed changes that would bring the program into the rapidly changing health care system of the 1990's and the next century.

Problem No. 3. The most difficult problem looming on the horizon, Mr. President, is the coming retirement of the baby boom generation—a relatively huge number of Americans will begin to turn 65 starting around the year 2010. There are 76 million individuals in the baby boom generation. They outnumber by 50 percent the generation that preceded them into retirement. Over the next 5 years, only about 10 percent of Medicare cost increases will be attributable to more beneficiaries. Once the baby boomers retire, however,

the combination of, one, a declining base of workers and, two, longer lifespans will double the combined costs of Medicare and Medicaid even if medical inflation, above CPI is eliminated altogether.

If Medicare is not prepared for the implications of this demographic shift, it may not be able to weather the storm. Democrats and Republicans have both put forward Medicare reform plans that would set up a high level, bipartisan commission to make the tough recommendations that are needed to prepare for this historical shift.

The differences between the parties, nevertheless, remain stark. The bill that is on the Senate floor today would cut $280 billion out of the Medicare Program over the next 7 years. The problem, Mr. President, is that this figure is based solely on a series of budget targets that lead to a balanced budget and reductions in taxes of $254 billion over the next 7 years.

The reconciliation bill before us is too long on squeezing beneficiaries and too short on genuine reform. It treats Medicare as a cash cow to be milked to keep promises of deficit and tax reduction made in the campaigns of 1994.

The figure of $280 billion in Medicare cuts is not good for the Medicare Program and the population it serves—those who depend on it today and those who will depend on it in future generations.

In the end, Mr. President, I am convinced that we can find a solution to all of these problems. What we have on the Senate floor today, however, is not the solution. It maintains all of the problems of the existing Medicare Program and underfunds them. It is a package of cuts, not reforms.

Mr. President, I ask unanimous consent to have a Democratic Medicare plan printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD as follows:

A DEMOCRATIC MEDICARE PLAN FOR THE 21ST CENTURY

Since Democrats created Medicare thirty years ago over GOP opposition, protecting this program has been a top Democratic priority. Today, as Republicans propose the largest cuts in Medicare's history—cuts made in the name of "saving" Medicare—Democrats once again are coming to Medicare's defense.

Our proposal: To ensure that Medicare remains solvent and strong by implementing reforms that strengthen and improve the program.

Our position: That the GOP Medicare plan cuts Medicare three times more than is necessary to restore Trust Fund solvency—and raids Medicare to pay for their scheme of tax breaks for the wealthiest.

Rejecting the Republican plan is not enough. Democrats will offer a proposal which:

Preserves seniors' right to keep their own doctor while giving them more choices of private health plans that provide high-quality and comprehensive benefits;

Improves Medicare's traditional fee-for-service program by making it more efficient and responsive to beneficiary needs, without imposing unnecessary and unfair increases in out-of-pocket Medicare expenses;

Tackles Medicare waste, fraud and abuse through programs applauded by law enforcement officials; and

Guarantees solvency of the Medicare Trust Fund through the year 2006 and prepares for the long-run challenge of the baby boom generation that will begin to retire in 2010.

The GOP claims we must cut $270 billion in order to save Medicare. That's just not true. According to the Health Care Financing Administration's Chief Actuary—who produced the estimates relied upon by the Medicare trustees—only $89 billion in cost reductions are needed to extend the life of the trust fund through the fourth quarter of the calendar year 2006.

In this proposal, we show that we can preserve and protect Medicare without slashing needed services for the elderly or increasing their out-of-pocket costs. Our plan places no new burdens on seniors—and our hospital cuts are half the Republicans'.

SUMMARY OF DEMOCRATIC PROPOSAL TO ENSURE SOLVENCY

I. Providing real choices

Medicare beneficiaries currently may choose from only two options—the traditional fee-for-service program and health maintenance organizations. Since 19 states have no Medicare HMOs, seniors in many states have no choice at all. This plan would ensure beneficiaries have access to a wide variety of health plans. Specific reforms include the following:

Expand private health plan choices: Medicare's current options would be expanded to allow the participation of preferred provider organizations, point-of-service plans, and provider sponsored networks. Plans would offer a basic benefit package equal to the fee-for-service plan with additional preventive services and lower cost-sharing.

Preserve a vital and affordable fee-for-service option: The GOP's $270 billion in cuts will spell disaster for hospitals and other health care providers all across the country, particularly in rural and underserved areas. The Democratic plan protects and improves fee-for-service Medicare—so seniors will continue to have a real choice. It keeps premiums affordable, saving seniors hundreds of dollars a year.

Reform payments to private health plans: Medicare would pay HMOs and other health plans a rate which would increase at the cost of other private health plans, unlike the GOP plan which arbitrarily caps payments at 4.3% and the current outmoded system which ties payments to fee-for-service costs. The Democratic plan would also require Medicare to test and recommend options to Congress on ways to pay private health plans through a market-based competitive bidding process.

Provide information on health plan options: Medicare would provide to all beneficiaries information comparing plans available in their region. The comparative plan information would be in a standardized format, in language that is easily understood. Such information would be provided to beneficiaries before they become eligible for Medicare and yearly after that during an open enrollment period.

Strengthen Consumer Quality Protections: Medicare would enhance health plan quality standards to prevent improper marketing and inappropriate incentives for utilization reviewers and to ensure access to the full range of Medicare covered services, including emergency and urgent care.

II. Strengthening traditional (fee-for-service) Medicare

Currently, 90% of Medicare beneficiaries are in Medicare's traditional fee-for-service program. The vast majority of seniors are likely to continue to enroll in this part of the program, even with the new options available to them. Given these trends, it makes sense to strengthen and improve Medicare's fee for service sector.

Under this proposal, a series of reforms would transform the fee-for-service program from a bill-paying insurance program into a responsive health plan that uses a variety of techniques to improve quality and service, restrain costs, and hold providers accountable for improving the health of their patients. To achieve this goal, Congress would provide authority to Medicare to adopt the same types of successful purchasing and quality techniques pioneered by private sector payers. Specific reforms include the following:

Establish quality performance standards: Require Medicare to establish explicit performance standards to allow enrollees to assess the program's performance on the basis of cost, quality, outcomes, and service. "Report cards" disseminated to beneficiaries would allow patients to compare providers against professional benchmarks.

Streamline rule-making process for purchasing: Develop options for simplifying the rule-making process and increasing Medicare's flexibility in negotiating contracts for specific services and categories of services.

Allow selective contracting with specialized programs: Allow Medicare to contract with specialized programs that manage chronic diseases like diabetes and congestive heart failure, complex acute care needs and the needs of disabled beneficiaries. Such specialized programs may include the use of alternatives to inpatient or institutional care or the use of specialized networks of caregivers. Private sector efforts along these lines have resulted in higher quality care, reductions in the need for institutional care and lower costs.

Provide authority to designate and contract with centers of excellence: Allow Medicare to use centers of excellence for additional complex and expensive services like surgery and cancer care. Medicare currently contracts with such centers for heart and liver transplant operations.

III. Attacking waste, fraud, and abuse

The General Accounting Office and others have estimated that up to 10 percent of health care expenditures and billions of dollars in Medicare payments are lost every year to fraud, waste, and abuse. These losses must be the first target of any responsible plan to reduce Medicare expenditures. This plan would take the most aggressive and comprehensive steps ever proposed to stamp out Medicare waste, fraud and abuse.

Specific measures include the following:

Expand abuse-fighting activities: Much abuse goes undetected and unpunished because there are not enough inspectors, auditors and prosecutors to do the job. Estimates indicate that every dollar invested in anti-fraud activities by the HHS Inspector General and Medicare contractors results in up to ten dollars in savings to Medicare. The Democratic Medicare plan more than doubles the current investment in fighting fraud and abuse. The plan also requires greater coordination of Federal, State and local law enforcement efforts to combat health care fraud.

Strengthen penalties for committing fraud: The Democratic plan would impose stiff penalties on those convicted of health care fraud, illegally distributing controlled substances, providing kickbacks, charging Medicare excessive fees, submitting false claims, or engaging in other abusive activities. This plan also strengthens available criminal remedies.

End wasteful Medicare spending for certain items and services: For example, Medicare

pays $2.32 for gauze pads that the Veterans Administration purchases for four cents. The Democratic Medicare plan would make Medicare a more prudent buyer of certain types of durable medical equipment, medical supplies, and other services while assuring continued access to these important services.

Improve collection of inappropriate Medicare payments: The Democratic Medicare plan would strengthen the Medicare Secondary Payor Program, requiring Medicare to more aggressively to collect payments due from private insurers. It would also extend Medicare secondary payor provisions for ESRD beneficiaries.

Employ more sophisticated, private sector computer technology: Require Medicare contractors to employ code manipulation detection software such as that widely used in the private sector.

Increase incentives to expose Medicare fraud and abuse: Establish rewards for reports by consumers that lead to criminal convictions for health care fraud and encourage the voluntary disclosure of fraud and abuse by health care providers.

Simplify administration and reduce paperwork: Require a uniform application process for health care providers seeking to participate in Medicare.

IV. Ensuring Medicare's solvency

Only $89 billion in savings—not the $270 billion proposed by the GOP—are needed to keep the Medicare Trust Fund solvent through at least the next decade. The Chief Actuary of the Health Care Financing Administration (HCFA), whose estimates form the basis of the Medicare Trustees' recommendations, has certified that an $89 billion reduction in the rate of growth of Part A expenditures over the period 1996–2002 would extend the life of the Medicare Hospital Insurance Trust Fund through at least the fourth quarter of calendar year 2006.

This proposal would call for a series of measures to reduce Medicare spending by $89 billion over the next seven years. Savings would be achieved through the above-mentioned reforms to Medicare's fee-for-service program and Medicare's private health plan options, while slowing the rate of growth of payments to providers. Special provisions are included to assist rural hospitals. No new costs would be imposed on beneficiaries.

This plan provides more reasonable reductions in all categories:

SENATE MEDICARE PLANS

[In billions of dollars]

	Democrats	Republicans
Seniors and the disabled	0	68
Hospitals	42	86
Skilled nursing facilities	6	10
Home health	9	18
Physicians	11	23
HMO's	23	50

While preserving Medicare's solvency until 2006, the plan would help Medicare prepare for the challenges it will face when the baby boom generation begins to retire in 2010. A commission would be created, charged with conducting strategic planning for the Medicare program to ensure that recipients in the 21st century have available to them the high quality and secure coverage that current beneficiaries enjoy.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is the amendment. It is very difficult to understand what is in it. But let me make a point. This pending amendment is not germane to the Budget Reconciliation Act. I raise a point of order against the pending amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, subject to section 904 of the Congressional Budget Act of 1974, I move to waive the section for the purpose of considering this amendment.

I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the purpose of considering the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that [Mr. LAUTENBERG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	

NAYS—52

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner
Domenici	Lugar	
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is sustained and the amendment falls.

Mr. DOLE. Let me indicate we are 6 minutes over on that vote. We could almost have had a second vote. I think there is a feeling we ought to try and finish this as quickly as we can. We are going to try to stick to the 7½ minutes. I want everybody to have a fair warning. We will try to do that.

Obviously, there is always some flexibility, but we would appreciate everyone's cooperation.

AMENDMENT NO. 3015

Mr. DOMENICI. Mr. President, I understand now that if I send the Hutchison amendment to the desk, which had previously been withdrawn—Senator BYRD objected, and he now has no objection. I send it to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mrs. HUTCHISON, for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS, proposes an amendment numbered 3015.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if

found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovena.

(2) with peace talks scheduled to begin in the United States on October 11, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the former Yugoslavia.

(8) ethnic cleansing by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

Mr. EXON. I yield back our time and support the amendment.

Mr. DOMENICI. We yield back our time

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 3015) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3016

(Purpose: To amend the Internal Revenue Code of 1986 to allow qualified retiring farmers to rollover the gain from the sale of farm assets into an individual retirement account, provide an offset by improving the application of the capital gains tax to sales of stock in domestic corporations by 10 percent foreign shareholders, and for other purposes)

Mr. DOMENICI. Mr. President, in agreement with the other side, I am sending an amendment to the desk on behalf of Senator KOHL on farmer IRA's. It has been approved by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. KOHL proposes an amendment numbered 3016.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. We yield back any time.

Mr. EXON. Mr. President, let me thank Senator KOHL, who has worked on this for a long, long time. It is a very good amendment. He has worked with the majority leader on this. We are enthusiastic about this on our side.

Mr. DOMENICI. Senator BYRD would like to have the amendment explained.

Mr. KOHL. This amendment will allow family farmers—not farmers who are not farming the land, family farmers—who farm the land for generations, when they sell their farm to roll over up to $500,000 of the proceeds into an IRA account. It only applies to hard-working family farmers.

We offset it by requiring those individuals from foreign lands or corporations, foreign lands who own U.S. stocks who are not now subject to tax, when they sell that stock, they will in the future be required to pay a U.S. tax on the sale of that U.S. corporation stock that they own.

I think the offset is an outstanding offset and I think the purpose of the IRA is to reward hard-working family farmers. I think it is a really good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3016) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3017

(Purpose: To require the President to include a generational acounting in the President's budget)

Mr. DOMENICI. Mr. President, I send a Simpson amendment to the desk in his behalf.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. SIMPSON proposes an amendment numbered 3017.

Mr. SIMPSON. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

Mr. SIMPSON. Mr. President, I rise today to offer an amendment that all Senators should be able to agree on. It would require that the President's annual budget continue to include a chapter on generational accounting.

"Generational accounting" is a way to consider the fiscal treatment of different generations. Specifically, it indicates what the members of each generation can expect to pay on average, now and in the future, in taxes, as a result of current budget expenditures and revenues.

President Bush included a chapter on generational accounting in his 1993 fiscal year budget and President Clinton included a chapter on generational accounting in his 1995 fiscal year budget—but he failed to include any mention of generational accounting in this year's budget.

Thirty of the 32 of us on the bipartisan commission on entitlements and tax reform concluded that if we do nothing about the impending entitlements crisis, by 2012 every penny of our Federal revenues will be necessary to pay for entitlements and interest on our national debt. In 2040, our children and grandchildren will be forced to pay 40 percent of the national payroll tax base in taxes.

It is crucial that we begin to take a longer term view of the future and consider how the impact of our decisions today will affect our children and grandchildren. If you truly are concerned about the burden of taxes on those we love, then you will support this amendment.

For 2 days now, I have listened to my colleagues wail about the poor, the young, the disenfranchised while they ignore the biggest crisis—the impending bankruptcy of the Social Security Program. It is like crying about slipping on a banana peel on the deck of the *Titanic*.

Our temporary fix for the Medicare Program is nothing more than delaying the inevitable. My colleagues are cheering that Medicare will not go broke in 2002, but rather in 2008. Now that is something to be proud of. Yet, we only have ourselves to blame.

In the past, the Social Security Advisory Council provided guidance on Social Security and Medicare issues. However, we got rid of the Advisory Council and instead created an Advisory Board—except that they no longer provide guidance on Medicare issues. How ironic. The program that is going to the dogs first, is the program we decided we do not want any guidance on.

So we have done it to ourselves. But we can stop this game-playing if we are forced to consider what we are doing to future generations—and this is why generational accounting is so important.

Mr. President, this amendment would simply require the annual budget of the President include a chapter on generational accounting.

The President of the United States, President Clinton, did a nice job on that in the first budget message. It was left completely out of the second one.

I think it is vitally important we tell the American people 20 and 30 years down the line who is paying the bills. I hope we can get back what President Clinton put in his first budget. This requires that so that we know what is out there 20 or 30 years from now—generational accounting, who is paying the bills, who really cares about the children of the country and also deals with that issue in an upfront way.

Mr. EXON. We yield back our time and accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3017) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3018

(Purpose: To provide States with the flexibility to continue to provide medical assistance under the Medicaid program to certain disabled individuals with incomes over 250 percent of poverty)

Mr. EXON. Mr. President, we have agreed on an amendment that has been worked on for a long time by Senator WELLSTONE.

I yield 30 seconds to him for the purpose of introducing the amendment which both sides have agreed to accept.

Mr. WELLSTONE. Mr. President, this is a Wellstone-Chafee amendment. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. CHAFEE proposes an amendment numbered 3018.

Mr. WELLSTONE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

"The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3)."

Mr. WELLSTONE. Mr. President, this amendment that I send to the desk with Senator CHAFEE would just provide States with the flexibility to continue to provide medical assistance under the Medicaid Program to disabled individuals, especially children that are staying home, in order to make sure that they can continue to stay at home.

It is very important in the disability communities, and I am very pleased to have the support from both sides of the aisle.

Mr. DOMENICI. Mr. President, I think we ought to accept this amendment. This says States have the right to continue the same kind of service they are giving now for disabled people.

It eliminates any concern that they might now have and mandates nothing. I think we should accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3018) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. I advise the Senate and the chairman of the committee that the next four amendments all have to do with medical matters. We think we have those bundled into one amendment that can be offered.

If required, though, I would like unanimous consent that we have tentatively agreed to; roughly, that if we have situations like this—in this case there are four introducers—if the introducers would like 30 seconds each, we would grant them that to encourage further melding of these amendments that are similar into one amendment and therefore expedite the process.

Mr. DOMENICI. Does the minority leader agree with that? I had talked to him. It sounded a little different when he was proposing it.

Mr. DASCHLE. Mr. President, I have no objection to that approach. I think all Senators need to have the opportunity to express themselves, whether it is a block of time or one person does it or individual blocks of time.

I know the distinguished Senator from West Virginia is very concerned that everybody have a complete appreciation of what it is that these amendments include. In this case, all of the amendments deal with Medicaid. They are interrelated and in some cases the original amendments were overlapping. So it is our view it expedites not only the process but the issue, in order to allow us to bring them up together.

So I think all concerns are served in this particular amendment. I hope we can support it.

Mr. DOMENICI. Let me just address this for a moment. Senator BYRD, as I understand it, if they would have sent their amendments up singly, they would have had 30 seconds. That is the agreement. They are going to send up four together—three—and they will have 30 seconds on each of those and we will have 30 seconds to respond on each of those, which I think does nothing more than save us the time of three votes. The rest of the rights are all intact, as we have agreed to them here in the Senate.

Mr. EXON. I was explaining that rather than four, we set aside the Dodd matter, which will be considered separately. The Feingold, Moseley-Braun, and Rockefeller amendments are embodied under the agreement that we have worked out.

Pending final working out of some details, I suggest, since Senator DODD, whom I earlier thought was included in this, is not and since he is next on my list, at this time I yield 30 seconds to Senator DODD for an explanation and the introduction of his motion that both sides have received some time ago.

DODD MOTION TO COMMIT

Mr. DODD. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes a motion to commit.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to reduce revenue reductions for upper income taxpayers by $51,000,000,000 in order to—

(1) restore current law Medicaid eligibility for children and pregnant women;

(2) include coverage of prenatal care and delivery services for pregnant women and Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) for children;

(3) strike the 20 percent cut from title XX of the Social Security Act;

(4) strike the cap on foster care administrative expenses:

Mr. DODD. This does three things. It restores Medicaid coverage for pregnant women and children, both eligibility and benefits; it restores the cut in title 20, which States are widely using for child care assistance; and, third, it restores the cut in foster care funds that States use to investigate reports of child abuse and to recruit foster parents. Again, these are three issues I think most people here believe are critically important. This would restore those parts of the bill.

CHILDREN: CARING HAS A COST

Mrs. MURRAY. Mr. President, I want to speak today about the children of this Nation, about my hope they will not give up hope, and my wish they will look forward to a brighter future. I want to tell the children of this country and of my state—despite what is going on in this current budget fight—there are adults who care about them.

I do not want to say the adults in the majority party don't care about our children. This budget plan does make me wonder, however, whether some Members of this austere body remember what it is like to raise children:

It makes me wonder whether some Members have ever really had to deal with the modest problems and costs every working family has to deal with: the costs of child care, the costs of medical care, the costs of school lunch.

I would simply remind those Members: caring does have a cost, and the cost is in no way reflected in this budget.

Children in this country feel like they have less to look forward to than ever before. Many adults on this floor have decried the state of our children's present and future, and many of us have felt the eyes of these kids upon us as we have cast a vote or made a speech.

So, here is what the majority will do for our kids in this budget: they will take away the health care coverage that allows kids to be healthy and ready to learn and grow. They will take away the child care that allows kids' parents to work. And, they will take away the foster care that helps kids in serious need.

Well, we have an amendment to this budget reconciliation bill to repair the damage: it will restore current Medicaid coverage for pregnant women and their kids, restore child care, and restore foster care funding.

On Medicaid, we need to preserve a basic safety net for children born into families of modest means. Medicaid is not free tummy-tucks for folks who don't need it.

Medicaid provides preventive and emergency care for needy kids, and long-term care for disabled children—who could be the children of any American family. We are restoring Medicaid coverage for these children, on a per-capita basis, instead of a block-grant that would cause them to compete against the elderly or other groups.

On child care, we cannot say to working mothers, struggling to stay off public assistance, "Oh, by the way, we are cutting money that allows you to work for a living." The Republicans have cut $3.3 billion in title XX child care grants to States at the same time they are promising $3 billion under welfare reform. Do not try and trick anyone. They are cutting child care—our amendment restores the cut.

On foster care, the majority is now going after children who do not even have birth-parents to rely upon. This cut is a classic: it tells a child, "we're really sorry that it's not working out with your folks, and that this is the toughest time in your life, but we cannot afford to pay for your foster care." Meanwhile, of course, the Republicans want to give tax breaks to people who can already afford to leave their children in the care of a high paid nanny every day.

Mr. President, our children are more important to us than a number on a balance sheet. I understand and agree we must balance the budget. We must preserve a future for our children, by not handing down our debts. But let us keep families alive, and able to work to support and raise their kids. Otherwise, we will shackle future generations with a much worse kind of debt.

The PRESIDING OFFICER (Mr. SMITH). Who yields time?

Mr. DOMENICI. Mr. President, I move to table the Dodd motion.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table the Dodd motion.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 50, nays 49, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—50

Abraham	Frist	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Hatfield	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

NAYS—49

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

So, the motion to lay on the table the Dodd motion to commit was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, earlier we had suggested that three Medicare amendments by Senator FEINGOLD, Senator MOSELEY-BRAUN, and Senator ROCKEFELLER be combined into one. We agreed that each Senator would have 30 seconds to explain their joint amendment.

At this time, I ask the Chair to recognize Senator FEINGOLD, then Senator MOSELEY-BRAUN, and then Senator ROCKEFELLER.

I congratulate them for expediting the process.

Mr. BYRD. Mr. President, I do not believe consent has been given to package amendments.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Reserving the right to object, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

The senior Senator from West Virginia.

Mr. BYRD. Mr. President, if this were the only time we would have a request for three amendments in one package, it might be all right. My problem with this is two or threefold. One, if we start down this road of packaging three amendments, the next time it will be four, and the next time five. Suppose someone objects, and would like to vote against one of the amendments in the package? He has to vote against the whole package. That is No. 1.

No. 2, if permission is given for this request, then I would assume our friends on the other side of the aisle will think they are entitled to package three or four amendments, but there may then be some objections over here.

So it seems to me to at least prevent ill will, hard feelings, and streamlining the process further—we do not know what we are voting on now. It is an absolute absurdity what is going on here.

I am not going to object in this one instance. But who is going to be the next to make such a request?

I do not object in this one instance.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 3019

(Purpose: To retain 1-year Medicaid coverage for recipients of assistance under State plans funded under part A of title IV who lose medicaid eligibility because of income when the recipient enters the work force)

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROCKEFELLER), for himself, Mr. FEINGOLD, and Ms. MOSELEY-BRAUN proposes an amendment numbered 3019.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. ROCKEFELLER. Mr. President, I am proud to offer this amendment with Senator MOSELEY-BRAUN and also Senator FEINGOLD. It basically does three things, and we combine them for the sake of efficiency.

We propose several improvements to the Medicaid Program. One is to help low-income families get health care when they move from welfare to work. Second is to help seniors get long-term care. And third is to make it much better for pregnant women and children——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. ROCKEFELLER. Twelve years and under to have standards for their health benefit packages.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment provides for flexible community and home-based, long-term care programs for individuals with disabilities of any age that have been Medicaid funded by striking provisions in the bill providing new tax expenditures for long-term care insurance and expanded IRA's.

The amendment would save $2.3 billion over 7 years. It is based on a very successful program in Wisconsin that has saved us hundreds of millions of dollars by keeping people in the community rather than in nursing homes.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 20 seconds.

Ms. MOSELEY-BRAUN. Mr. President, the other part of the amendment has to do with people who are transitioning from welfare to work so we can provide that they will not lose health coverage, and particularly that the children will not be put in jeopardy of losing their health care when their parents go into the work force. Over a million children will be involved with this, Mr. President, and I encourage support for providing a minimal safety net for them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI addressed the Chair.

Ms. MOSELEY-BRAUN. Mr. President, I appreciate your graciousness. Senator FEINSTEIN had an amendment like this and would like to be a cosponsor, and I ask unanimous consent she be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator MOSELEY-BRAUN's amendment creates new entitlements, not germane, mandates on the States that are not found in the bill. Senator FEINGOLD's long-term care amendment which has been added here—is that correct? Whose long-term care amendment is here?

Mr. EXON. Senator FEINGOLD.

Mr. DOMENICI. Senator FEINGOLD, excuse me. He would destroy the badly needed relief proposals and spend the money on Medicaid. The amendments are filled with these kinds of things, but overall they violate the Budget Act for germaneness, and I make a point of order.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that act for the purpose of considering the amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the consideration of the amendment. The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—45

Akaka	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Heflin	Murray
Breaux	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Reid
Cohen	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Snowe
Exon	Leahy	Specter
Feingold	Levin	Wellstone

NAYS—54

Abraham	Faircloth	Lugar
Ashcroft	Frist	Mack
Baucus	Gorton	McCain
Bennett	Graham	McConnell
Bond	Gramm	Murkowski
Brown	Grams	Nickles
Bryan	Grassley	Nunn
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kerrey	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Is Senator PRESSLER here? We are next on this side and want to do his wheat amendment.

Has the Senator an amendment ready on his side?

Mr. EXON. Yes. I am ready.

Mr. DOMENICI. I might announce on our side, if Senator PRESSLER would come to the floor. If he cannot make it for some reason, let us take Senator GRASSLEY. Senator GRASSLEY will be next after the Democrat amendment. All right.

Does the Senator have an amendment ready?

Mr. EXON. We do have the Mikulski amendment.

I recognize Senator MIKULSKI from Maryland for the purpose of—before I recognize her, I ask unanimous consent that it be in order that the Senator from Maryland be permitted to offer a motion to instruct conferees on the clinical lab standards at this time.

Mr. DOMENICI. Was that a consent request?

Mr. EXON. Yes.

Mr. DOMENICI. I have to object while I speak for a minute on it.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. I object.

You have something else?

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thought it—recognizing the Senator's right, certainly, to object—I thought it had been cleared that I could offer my amendment and that it had been cleared with the Republican leadership. So I am happy to wait and let another amendment go by. I think we need to clarify this situation.

Mr. DOMENICI. Why does the Senator need consent to proceed with an amendment? Why? Does the Senator need unanimous consent?

Ms. MIKULSKI. No.

I thought it was agreed that no one would object to this coming up, I say to the Senator. I am surprised the Senator objected.

Mr. DOMENICI. Mr. President, I think we are going to be able to agree with the Senator shortly. Can the Senator wait a little bit?

Ms. MIKULSKI. I will be happy to wait.

Mr. DOMENICI. I thank the Senator very much.

Mr. EXON. Mr. President, since the Mikulski matter has been set aside temporarily, the next amendment is an amendment regarding dairy, offered by the Senator from Wisconsin, Senator FEINGOLD. I yield 30 seconds on our side to him for that stated purpose.

AMENDMENT NO. 2999

(Purpose: To strike the provision relating to the milk manufacturing marketing adjustment which provides special treatment to California cheese processors at a budget cost of $20 million)

Mr. FEINGOLD. Mr. President, I offer an amendment on behalf of myself, Senator PRESSLER, Senator GRAMS, Senator MCCAIN, and Senator KOHL, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, and Mr. KOHL, proposes an amendment numbered 2999.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, strike lines 21 through 24.

Mr. FEINGOLD. Mr. President, the 1990 farm bill contains a provision designed to prevent California cheese

processors from receiving artificial milk manufacturing incentives which are significantly higher than those allowed in the rest of the country under the Federal milk product support program.

The reconciliation bill repeals this provision resulting in a $20 million cost to the Federal taxpayer by the purchase of additional cheese surpluses from California. This amendment strikes that provision and leaves current law intact and saves $20 million.

The PRESIDING OFFICER. The pending question is amendment No. 2999.

Mr. DOMENICI. That is the amendment that was just described?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Do I not have 30 seconds to respond?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, the Agriculture Committee bill would repeal section 102 of the 1990 farm bill. Section 102 was put in that bill to override State operating orders. It has been in existence for 5 years and has never been used.

It seems to me we ought to remain consistent and we ought to defeat the amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2999. The yeas and nays have been ordered. The clerk will call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—57

Baucus	Ford	Lieberman
Bennett	Frist	Lott
Bond	Gorton	Lugar
Boxer	Graham	Mack
Breaux	Gramm	McConnell
Brown	Hatch	Mikulski
Campbell	Hatfield	Moynihan
Chafee	Heflin	Murkowski
Coats	Helms	Nickles
Cochran	Hollings	Roth
Cohen	Hutchison	Santorum
Coverdell	Inhofe	Shelby
Craig	Inouye	Simpson
D'Amato	Jeffords	Snowe
Dodd	Kassebaum	Specter
Dole	Kempthorne	Thomas
Domenici	Kyl	Thompson
Faircloth	Leahy	Thurmond
Feinstein	Levin	Warner

NAYS—42

Abraham	Daschle	Kennedy
Akaka	DeWine	Kerrey
Ashcroft	Dorgan	Kerry
Biden	Exon	Kohl
Bingaman	Feingold	Lautenberg
Bradley	Glenn	McCain
Bryan	Grams	Moseley-Braun
Bumpers	Grassley	Murray
Burns	Gregg	Nunn
Byrd	Harkin	Pell
Conrad	Johnston	Pressler
Pryor	Rockefeller	Smith
Reid	Sarbanes	Stevens
Robb	Simon	Wellstone

So the motion to lay on the table the amendment (No. 2999) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I am not quite certain where we are in the process. Some have suggested that we take a couple hours recess here to try to get the amendments into a little group. I do not know how many are left. We do not have any idea how much longer it is going to take.

We are trying to decide whether to leave here at six and come back at nine in the morning, or whether to take an hour break and see if we cannot further winnow down the number of amendments. We would like to finish it sometime tomorrow.

RECESS

Mr. DOLE. I ask that we stand in recess for 20 minutes.

There being no objection, the Senate, at 3:46 p.m., recessed until 4:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I had a discussion with the Democratic leader, Senator DASCHLE. We have had discussions here with Members on both sides.

It is my understanding we can now, maybe shortly, propound a list of amendments and only those amendments would be in order. Hopefully, they will not all be offered, but that is where we are right now.

I think, in the meantime, I am prepared to consent to the request of the Senator from Maryland, Senator MIKULSKI, who made a unanimous-consent request that we might have a vote on a motion to instruct before passage rather than after passage.

I have no objection to that request. We are trying to work out the motion itself.

Ms. MIKULSKI. I thank the leader for his consideration. What, then, would he advise me to do? Just wait patiently, as is my temperament?

Mr. DOLE. The Senator has always been patient. But I would ask that the Senator be permitted to offer it before the vote rather than after the vote. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. We will try to work it out so maybe it will go very quickly.

Ms. MIKULSKI. I thank the leader.

Mr. DOLE. In the meantime, I guess we can just continue back and forth.

Mr. DOMENICI. I think I have one here which I would like to go ahead and get done, which is an amendment of Senator GRASSLEY regarding Indian health.

Mr. EXON. It has been approved.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2955

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 2955.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 862, line 16.

Subsection (e) of Section 2123 is amended by adding ", other than a program operated or financed by the Indian Health Service," after "other federally operated or financed health care program".

Mr. DOMENICI. Mr. President, this has been cleared on both sides. Senator GRASSLEY has taken an interest in a concern of the Indian Health Service with reference to Medicaid and other third party reimbursement programs. This gives them permission to get involved in that program as a health delivery system.

Mr. EXON. Mr. President, I yield the remainder of my time. We agree with the amendment. I ask for the vote.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2955) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, moving ahead in the fashion in which we have been plowing ahead and making some progress, the next amendment on this side would be by the Senator from Iowa, Senator HARKIN.

I yield our time on his amendment to him for the description and introduction of the amendment.

AMENDMENT NO. 3020

(Purpose: To support the President's promise in 1993 to not require significant additional cuts in programs that affect rural America, to preserve the safety net for family farmers which represent the backbone of American Agriculture, to maintain the competitiveness of American Agriculture, and to ensure a future supply of American Agricultural products)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, Mr. DASCHLE, Mr. DORGAN, Mr. WELLSTONE, Mr. HEFLIN, and Mr. BUMPERS, proposes an amendment numbered 3020.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself and Senators DASCHLE, DORGAN, WELLSTONE, HEFLIN, and BUMPERS.

Basically, Mr. President, this is an agricultural substitute. It cuts $4.2 billion out of agriculture, not the $12.6 billion that is in the bill. It provides for a two-tier marketing loan system for wheat and feed grains. And we offset the cost of the bill by striking the provisions of the bill affecting the alternative minimum tax.

So basically, if you want a fairer farm bill for our farmers and rural people, this is it. It only cuts $4.2 billion, not the $12.6 billion in the bill. And we do have an offset.

Mr. DOMENICI. Mr. President, this is a rewrite of the farm bill which is in this reconciliation bill. After much concern and consideration, the Committee on Agriculture provided a farm bill which reforms much of agriculture in America.

I do not believe we ought to be undoing that here with a total substitute. It is not germane and is subject to a point of order under the Budget Act. And I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 31, nays 68, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—31

Akaka	Feinstein	Leahy
Baucus	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Bryan	Harkin	Moynihan
Bumpers	Heflin	Murray
Conrad	Hollings	Pryor
Daschle	Inouye	Robb
Dodd	Kennedy	Simon
Dorgan	Kerrey	Wellstone
Exon	Kerry	
Feingold	Kohl	

NAYS—68

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Graham	Murkowski
Biden	Gramm	Nickles
Bingaman	Grams	Nunn
Bond	Grassley	Pell
Bradley	Gregg	Pressler
Breaux	Hatch	Reid
Brown	Hatfield	Rockefeller
Burns	Helms	Roth
Byrd	Hutchison	Santorum
Campbell	Inhofe	Sarbanes
Chafee	Jeffords	Shelby
Coats	Johnston	Simpson
Cochran	Kassebaum	Smith
Cohen	Kempthorne	Snowe
Coverdell	Kyl	Specter
Craig	Lautenberg	Stevens
D'Amato	Levin	Thomas
DeWine	Lieberman	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

This amendment adds new subject matter and therefore is not germane. The point of order is sustained. The amendment fails.

Mr. DOLE. Are there further amendments?

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 2986

Mr. DOMENICI. Senator SPECTER has a sense of the Senate amendment.

Mr. SPECTER. Mr. President, I call up amendment 2986.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, is it in order to modify the amendment?

AMENDMENT NO. 2986, AS MODIFIED

(Purpose: To express the sense of the Senate concerning a flat tax and reform of the current Tax Code)

Mr. SPECTER. I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes amendment numbered 2986, as modified.

Mr. SPECTER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: SEC. . Sense of the Senate.—

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filing out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits;

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate.

Mr. SPECTER. Mr. President—within 30 seconds—this amendment expresses the sense of the Senate that Congress should proceed to adopt a flat tax. It does not specify the precise type of a flat tax. There has been a lot of expression in favor of a flat tax as being progrowth, not regressive with a substantial exemption for individuals.

And I ask my colleagues to support this concept in general terms with this sense of the Senate resolution.

I yield back the balance of my time.

Mr. EXON. Mr. President, this amendment has no effect on reducing the deficit, which is what this bill is all about. It is a good political statement for people who are involved in politics at this particular time in the year. I think we do not have the time to look at this. I may be for a flat tax at some time in the future, but this is not the place or the time to put the Senate on record.

Therefore, Mr. President, I raise a point of order that the pending amendment is extraneous and violates the Byrd Rule, section 313(b)(1)(A) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I move to waive that section.

The PRESIDING OFFICER. The motion is made to waive.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 17, nays 82.

[Rollcall Vote No. 536 Leg.]

YEAS—17

Baucus	Grams	Murkowski
Breaux	Grassley	Nickles
Brown	Helms	Pressler
Campbell	Inhofe	Reid
Craig	Kempthorne	Specter
Dole	Lott	

NAYS—82

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murray
Boxer	Gregg	Nunn
Bradley	Harkin	Pell
Bryan	Hatch	Pryor
Bumpers	Hatfield	Robb
Burns	Heflin	Rockefeller
Byrd	Hollings	Roth
Chafee	Hutchison	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Warner
Exon	Levin	Wellstone
Faircloth	Lieberman	
Feingold	Lugar	

The PRESIDING OFFICER. On this vote, the yeas are 17, the nays are 82. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Pennsylvania presents nonbinding sense-of-the-Senate language and has no budgetary effect. Therefore, it is out of order under section 313(b)(1)(A) of the Budget Act.

The point of order is sustained. The amendment falls.

CHANGE OF VOTE

Mr. PRESSLER. Mr. President, on rollcall vote 534, I voted "yea." It was my intention to vote "nay." Therefore, I ask unanimous consent to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing talley has been changed to reflect the above order.)

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next amendment will be offered by Senator WELLSTONE, the Senator from Minnesota. I yield him 30 seconds for that purpose at this time.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 30 seconds.

AMENDMENT NO. 3021

(Purpose: To target commodity-program benefits to small and moderate-sized farm operations, and to ensure that large farm operations contribute to deficit reduction, by requiring that agricultural payment limitations be directly attributed to individuals and set at a maximum of $40,000 per person for payments, with resulting savings applied to the purpose of reducing the number of unpaid flex acres for farm-program participants within the payment limitations, and for reducing the size of the budget reduction in the Conservation Reserve Program)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3021.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. 1. PAYMENT LIMITATION

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) LIMITATION.—

"(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446t) may not exceed $40,000.

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(b) CONFORMING AMENDMENT.—

"(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(A)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

"(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv)) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

"(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103B(b), 101B(b), 101B(b).' and insert '302, 303, 304, 305,'.

"(4) Section 1001C(a) of the Act (7 U.S.C. 1308-3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'."

SEC. 2. COMMODITY PROGRAMS

(a) Strike section 1103(4)(c)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';

(b) Strike section 1104(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';

(c) Strike section 1105(4)(c)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent'; and

(d) Strike section 1106(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent'."

SEC. 3. CONSERVATION RESERVE PROGRAM

Amend section 1201(a) by striking "(1) $1,787,000,000 for fiscal year 1996" and all that follows through "$974,000,000 for fiscal year 2002" and insert the following—

"(1) $1,802,000,000 for the fiscal year 1996;

"(2) $1,811,000,000 for the fiscal year 1997;

"(3) $1,476,000,000 for the fiscal year 1998;

"(4) $1,277,000,000 for the fiscal year 1999;

"(5) $1,131,000,000 for the fiscal year 2000;

"(6) $1,029,000,000 for the fiscal year 2001; and

"(7) $1,004,000,000 for the fiscal year 2002."

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

The PRESIDING OFFICER. The Senate will please be in order. Senators please take their conversations elsewhere.

Mr. WELLSTONE. Mr. President, this would limit the farm payments to $40,000 a year. Over the last 10 years, only 2 percent of the recipients have received more than that.

It saves $1.6 billion over 7 years. It assures that the larger farmers are a part of deficit reduction and from these savings, this goes back to help some of the mid-sized farmers and also the Conservation Reserve Program.

I send this amendment to the desk with Senator LIEBERMAN as a cosponsor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is another attempt, in a slightly different way, to restructure the agricultural reform provisions in this bill, worked on at length by our committee.

I do not believe it violates the Budget Act, so I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3021. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—64

Abraham	Bond	Campbell
Akaka	Boxer	Coats
Ashcroft	Breaux	Cochran
Baucus	Brown	Coverdell
Bennett	Bumpers	Craig
Biden	Burns	D'Amato

DeWine	Hollings	Nickles
Dole	Hutchison	Nunn
Domenici	Inhofe	Pryor
Faircloth	Inouye	Roth
Feinstein	Johnston	Santorum
Ford	Kassebaum	Shelby
Frist	Kempthorne	Simpson
Gorton	Kerrey	Smith
Graham	Kyl	Specter
Gramm	Lott	Stevens
Grams	Lugar	Thomas
Gregg	Mack	Thompson
Hatch	McCain	Thurmond
Hatfield	McConnell	Warner
Heflin	Murkowski	
Helms	Murray	

NAYS—35

Bingaman	Glenn	Moseley-Braun
Bradley	Grassley	Moynihan
Bryan	Harkin	Pell
Byrd	Jeffords	Pressler
Chafee	Kennedy	Reid
Cohen	Kerry	Robb
Conrad	Kohl	Rockefeller
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Simon
Dorgan	Levin	Snowe
Exon	Lieberman	Wellstone
Feingold	Mikulski	

So the motion to lay on the table the amendment (No. 3021) was agreed to.

AMENDMENT NO. 3022

(Purpose: To make the "manager's" amendments to the bill)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator BROWN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BROWN, proposes an amendment numbered 3022.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike lines 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget,

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad" account).

Mr. DOMENICI. Mr. President I think this has been cleared on both sides. This has to do with lease-purchase agreements and authority to do that interagency, between agencies, of the Government.

Mr. EXON. Mr. President, I yield back the remainder of my time. We approve of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3022) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I believe the next amendment that we have would be by the Senator from New Jersey.

I yield 30 seconds for the purpose of an explanation of the amendment to the Senator from New Jersey.

AMENDMENT NO. 3023

(Purpose: To strike sections 5400 and 5401 of the reconciliation bill, sections which provide for the discounted prepayment of construction costs currently owed by farmers to the Federal government for irrigation water provided under the Reclamation program, thereby relieving them of the 960 acre limitation on delivery of federally subsidized water contained in the Reclamation Reform Act of 1982)

Mr. BRADLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], proposes an amendment numbered 3023.

Strike sections 5400 and 5401.

Mr. BRADLEY. Mr. President, I move to strike sections 5400 and 5401 of the reconciliation bill. These provisions represent corporate welfare at its worst. They direct costly Federal irrigation subsidies—originally intended to support small family farmers—to the largest farm operations in the West. They will benefit only a handful of wealthy individuals. I oppose granting additional subsidies to those least in need of Federal handouts, and ask my colleagues to do the same.

When the Reclamation Program began in 1902, Congress provided low cost irrigation water to small, 160 acres or less, family farms. The policy was intended to help small farmers; large farms were explicitly excluded from the subsidies.

In 1982, Congress recognized that the average family farm had grown, and increased the acreage limitations from 160 acres to the present 960 acres. Holders larger than 960 acres were required to pay full cost for irrigating their excess holdings.

The reconciliation bill creates a loophole permitting the wealthiest farmers to avoid paying full cost instead of the subsidized price. It allows farmers with excess holdings to prepay for their water—nothing wrong with that—but at the subsidized rates intended for small family farms. For these large farm operations, the cost of prepaying could be less than the cost of 1 year's irrigation water. These individuals would then be exempt forever from acreage limitations and full-cost pricing, even if the Federal Government makes new investments that would enhance their water projects. The net present value of the benefits to these individuals—and loss to the U.S. Treasury—could exceed $1,000 an acre. How can we justify such welfare for the wealthiest?

As a result of this provision, the very family farmers for whom the Reclamation Program was designed will face ever-larger competitors who obtain even greater subsidies than the small farmer. This change in policy would be accomplished without hearings and without any meaningful analysis of impacts, taxpayer costs, winners or losers. It also is not fair to the many farmers throughout the West who have complied with the letter and intent of reclamation law, and did not seek additional discounts or waivers of key provisions of Federal law. I believe that allowing people to buy their way out of Federal regulations is fundamentally unfair; to offer them a discount just compounds the inequity.

Mr. CRAIG. Mr. President, I rise in strong opposition to the motion by the Senator from New Jersey to strike the provisions in the title of the Committee on Energy and Natural Resources that would repeal the prohibition on prepayment of construction charges.

I read with some interest the "Dear Colleague" sent around by the Senator from New Jersey. It presents a curious and inaccurate history of reclamation provisions. Its description of the committee provision is also flawed. The letter uses the rhetoric of "corporate welfare" and "costly * * * subsidies" as if they were some magic incantation that would transform the true intent of the motion. The committee language does not create a loophole; it terminates a foolish restriction inserted in the 1982 Reclamation Reform Act to prevent irrigation districts and individuals who hold repayment or water service contracts from prepaying their debt. Prior to 1982, that limitation did not exist.

The letter is not correct about the history of reclamation law that led to the 1982 act. The letter states that when the reclamation program began in 1902, Congress provided low cost irrigation water to small—160 acres or less—family farms. That sounds nice, but it simply is not true. First of all, Congress decided that unlike other public works projects that had been fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal Government for their allocable costs. The irrigation component would be without interest, but it would have to repaid. Contrast that with the complete subsidy given to farmers who benefit from Corps projects in New Jersey

and elsewhere who repay nothing because their benefits are called flood control.

The statement is also inaccurate in suggesting that Congress provided the water, since in many of the early projects, such as the Newlands Project, the water users held, and still hold, the water rights. What the Federal Government did was provide the financing for the storage and conveyance systems. Even where the Federal Government obtained the water rights for a project, the Reclamation Act specifically required the rights to be obtained in full compliance with State law, and the Supreme Court made it clear that the Federal Government held those rights as a trustee for the water users. Congress did not provide water. In addition, the suggestion that Congress was providing low-cost water would come as a surprise to the water users who were required to reimburse the Federal Government annually for all operation and maintenance costs as well as a portion of the capital construction costs. Granted the Federal Government was not seeking to make a profit, but repayment was a new concept imposed on the reclamation program.

The statement also says that the program was limited to "small (160 acres or less) family farms". In fact, the reclamation program spoke of individual ownership limitations. Each person could own 160 acres. So could that person's spouse and so could each of that person's children. A family with four children could own 960 acres. In addition, there were no limitations on how much additional land could be leased. That family could lease an additional thousand acres in addition to the 960 acres it owned. One major problem that the 1982 reclamation reform sought to resolve was whether those acreage provisions applied only on a district by district basis or Westwide. When the letter speaks of the 1982 act easing "the acreage limitations, raising them from 160 acres to the present 960 acres", it is not being completely honest. In the 1982 act, we set the acreage limit at 960 acres for an entire family including both owned and leased lands and then applied the limit Westwide. That was reform; it was not necessarily good news for large families.

The letter describes the provision in the committee reconciliation bill—Part I of Subtitle E—as creating a loophole for large farmers. In fact, the provision simply repeals a foolish limitation on prepayment that was inserted in the Reclamation Reform Act in 1982. That limitation excluded any contract that already contained a prepayment provision, so it was discriminatory on its face.

The letter suggests that enactment is bad for family farmers who will face ever-large competitors who obtain even greater subsidies. That statement is simply disingenuous. The reason for opposition to the committee provision has nothing whatsoever to do with concern for family farmers—or farmers in general. Prepayment eliminates the construction debt and the false accusation that the repayment is a subsidy. What the proponents of this motion fear is the loss of their rhetoric. Upon payment of the construction debt, the operation of the project is turned over to the water users. Section 6 of the 1902 Reclamation Act provides in relevant part that "when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense." That is what really bothers the authors of this motion. They fear the loss of control and their ability to load totally unnecessary costs onto the farmers in the Western States under the guise of operations.

Operation and maintenance will pass to the project beneficiaries as soon as repayment is complete, and the acreage limitations will no longer apply. It is not a concern for the family farmer that lies behind this motion, but rather a desire to keep Federal control over family farmers for as long as possible. No one should misunderstand the true motives of those who support this motion. All you have to do is look at the proposed regulations issued by Secretary Babbitt to see what the objective is. The regulations, which depend solely on continuing the construction debt, are part of the savage and unrelenting attack on water users in the West by this administration and its allies in the Congress.

The letter states that this is a change in policy that would be accomplished without hearings and without any meaningful analysis. In fact, the limitation on prepayment was specifically raised during our hearings on S. 602 earlier this year when witnesses noted the prohibition on prepayment as an obstacle to transfer of certain project features. It was implicit in our field hearings on the Department's proposed regulations that were conducted in Twin Falls, ID and in Riverton, WY. I hope my colleagues who truly care about the farmers in this Nation pay close attention to what this administration has proposed in these regulations. Under the guise of defining what constitutes a lease, Secretary Babbitt is seeking to impose a new and onerous intrusion into individual farm operations.

Reclamation law speaks to ownership, land owned or leased, and Congress explicitly adopted an economic benefits test to distinguish a lease from a management agreement. Secretary Babbitt ignored the legislation and its history to conduct his campaign of aggression on Western farmers, and it is that campaign the authors of this motion seek to perpetuate. We have gone down that road several times. We have faced efforts in the Energy Committee to use the mere sharing and equipment by farmers as an indicia of a lease, so we know what the real intent is.

Despite Congress's explicit adoption of the economic benefit test, on April 3, 1995, Secretary Babbitt proposed new regulations that would adopt a far broader and more intrusive standard.

According to the proposed regulations:

> Lease means any agreement between a landholder (the lessor) and another party (the lessee) under which possession of the lessor's land is partially or wholly transferred to the lessee. Possession means the authority to make, or prevent the lessor from making decisions concerning the farming enterprise on the land; or the assumption of economic risk with respect to the farming enterprise on the land. In situations where possession has been partially transferred from a landholder to another party, a lease will be considered to exist if the majority of possession is not held by the potential lessor. In situations where possession has been transferred from a landholder to more than one other party, a lease will be considered to exist between the lessor and the party holding the greatest degree of possession.

In its analysis of the proposed rules (60 Fed. Reg. 16924) Interior explains the lease definition change as follows:

> Lease would be substantially modified. Under the existing regulation, one of the key elements in the definition of lease is the assumption of economic risk by the reputed lessee. This definition permits the development of arrangements under which an individual or legal entity is paid a fixed fee for operating a farming enterprise. Since the operator under these arrangements assumes no economic risk, Reclamation currently does not deem the operator to be in a lease relationship. Therefore, under the existing rules, operators are not subject to full cost irrigation water rates.
>
> The new definition would make possession the singular element indicating the existence of a lease. The definition would eliminate economic interest as an essential element of a lease (although economic risk would remain a factor indicating the existence of a lease). Thus, under the proposed regulation, whenever someone other than the landowner has possession of non-exempt land, a lease would exist. Reclamation would consider fixed-fee operations leases and would subject the parties to full cost pricing if possession of the land has been transferred, and if non-full cost entitlement are exceeded.
>
> The second and third sentences of the definition would address the situation where more than one party has some degree of possession; for example, a landowner may contract with a farm manager but may retain some decisionmaking authority.
>
> Reclamation intends the proposed definition of the term lease to exclude arrangements between landowners and custom operators, employees, lenders, and other landholders with whom farm equipment is shared.

Interior's examples show that even if a landowner "retains all economic risk associated with" farming his land, if he does not "make all major decisions concerning the farming operation," a lease will exist, and full cost will be charged. (60 Fed. Reg. 16929).

During our field hearings in Twin Falls, ID this August, Senator McClure, the chairman of the Energy

Committee when the Reclamation Reform Act was adopted, made a very eloquent statement on the effect and propriety of the proposed regulations. He stated:

Under the proposed regulations, if a farmer were to fall ill and his children or neighbors were to take over the management of the farm until he recovered, they would get a bill for full cost from Secretary Babbitt.

If a farmer were to die and his children took over the management of the farm so that their mother would not have to sell off the homestead, Secretary Babbitt would send a bill for full cost even if the children were not even reimbursed for their costs.

If a farmer were called to military service and his father took over the farm while he served his country, the President would present him a medal and Secretary Babbitt would send him a bill for full cost.

At the rate EPA is trying to regulate every aspect of our lives, I guess we could send the bill for full cost to Carol Browner.

The point I want to make is Congress settled this issue. The test is beneficial interest measured solely by economic benefit. That is the law and Secretary Babbitt lost.

Mr. Chairman, you have other witnesses who can testify to equivalency, trusts, involuntary acquisitions, and other provisions of these new rules. I will not go into them at this time. What I want to emphasize is that these rules have no foundation in law or legislative history. They are symptoms of a larger struggle of federalism in which this Administration seeks to abuse its authority and impose its social agenda on the West. While there is an underlying preoccupation with certain farm arrangements in California, there is also a philosophy that Secretary Babbitt represents that believes Washington should dictate the future of the West. It is a philosophy that wants control of water and an end to irrigated agriculture. It is a philosophy that hides behind the need for conservation in the arid west to drive its particular vision. This is an ongoing struggle that surfaces here with attempts to make farming uneconomic and municipal water supplies prohibitively expensive. It surfaces elsewhere on grazing, on mining, on mineral leasing.

I take great pride in what I was able to accomplish in returning salmon runs to portions of Idaho that had not seen salmon in years. I managed to do that while respecting State law and the primacy of State water law. I take great pride in moving the Hells Canyon legislation through the Congress, but I did that in full compliance with State law including subjecting federal reserved rights to future upstream beneficial uses. As anyone can see, we have not dried up the Snake.

Mr. Chairman, the federal-state relationship is not one of master-servant, as much as Secretary Babbitt may want it to be. Federalism means a respect for the rule of law and a recognition that this is a Republic of sovereign States with a central government of limited delegated powers. These rules violate that trust.

Mr. President, the sole reason behind the motion to strike is a desire to continue the predation undertaken by Secretary Babbitt on Western farmers. There is not the slightest concern for farmers, small or large, family or corporate. What the committee did was solely to permit individuals or districts holding repayment or water service contracts to pay off the intolerable subsidy that the proponents of the motion to strike have complained of for so long. The outrageous discount that the "Dear Colleague" complains of is language imposed by the Senator from New Jersey on the prepayments that he has agreed to over the past 6 years—it is his language. The language also includes a provision that requires a premium if the district were to use tax exempt bonding—as many of them could. There is no such requirement in reclamation law or in any of the existing contracts that provide for prepayment or accelerated payment. That is a requirement also insisted on by the Senator from New Jersey in our recent legislation and we have included it here.

In short, Mr. President, the cries of "corporate welfare" and "unwarranted subsidies" ring very hollow when the true motivation is simply to protect the scorched earth assault on the West being conducted by this administration through Secretary Babbitt and his allies. Even Director Rivlin plaintively objects to this provision as an unjustified provision allowing prepayment—unjustified solely because farmers might be able to go back to farming without fear that this administration will succeed in driving them off their land.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I yield my 30 seconds to Senator CRAIG in opposition to the amendment.

Mr. CRAIG. Mr. President I hope we could oppose this amendment.

In the bill we are attempting to pass, we are asking reclamation projects ready to prepay to repay now upon a negotiated relationship with the Bureau of Reclamation, to return money to the Treasury now.

The Senator from New Jersey is striking that. We think we have crafted good law, which is exactly the intent of the original reclamation law, only we advance the opportunity to pay it out and then turn those authorities to the owners of the property according to those within the projects.

Mr. DOMENICI. Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced— yeas 60, nays 39, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—60

Abraham	Domenici	Kempthorne
Akaka	Dorgan	Kerrey
Ashcroft	Exon	Kyl
Baucus	Faircloth	Lott
Bennett	Feinstein	Mack
Bond	Ford	McCain
Boxer	Frist	McConnell
Breaux	Gorton	Murkowski
Brown	Gramm	Nickles
Burns	Grams	Pressler
Campbell	Grassley	Roth
Coats	Hatch	Santorum
Cochran	Hatfield	Shelby
Conrad	Heflin	Simpson
Coverdell	Helms	Smith
Craig	Hutchison	Stevens
D'Amato	Inhofe	Thomas
DeWine	Inouye	Thompson
Dodd	Johnston	Thurmond
Dole	Kassebaum	Warner

NAYS—39

Biden	Harkin	Moynihan
Bingaman	Hollings	Murray
Bradley	Jeffords	Nunn
Bryan	Kennedy	Pell
Bumpers	Kerry	Pryor
Byrd	Kohl	Reid
Chafee	Lautenberg	Robb
Cohen	Leahy	Rockefeller
Daschle	Levin	Sarbanes
Feingold	Lieberman	Simon
Glenn	Lugar	Snowe
Graham	Mikulski	Specter
Gregg	Moseley-Braun	Wellstone

So the motion to lay on the table the amendment (No. 3023) was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I have a unanimous consent request that has been cleared by all parties, if I might make that?

The PRESIDING OFFICER. May we have order, please. I did not hear the Senator from New Jersey.

POSITION ON VOTE

Mr. LAUTENBERG. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rollcall 531 I was present, voted aye. The official RECORD has me listed absent. There was some confusion at the front.

Therefore, I ask unanimous consent that the official RECORD be corrected to accurately reflect my vote. There is no change in the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3024

(Purpose: To ensure the health of newborn children by allowing low-income unemployed pregnant women otherwise in compliance with food stamp work requirements and all other requirements of the Food Stamp Act to receive food stamps throughout pregnancy; to provide nutrition funding for American Samoa; and to provide an offset by implementing the reduction in the food stamp standard deduction one month earlier than otherwise would have occurred under S. 1357)

Mr. EXON. Mr. President, the following unanimous consent request has

been cleared with the majority managers.

On behalf of the Senator from Vermont, Senator LEAHY, I send an amendment to the desk and ask for its consideration, and further, I ask unanimous consent that further reading be dispensed with after it is started, the amendment be agreed to, and the motion to table the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. LEAHY, proposes an amendment numbered 3024.

The PRESIDING OFFICER. The agreement was it not be read.

The amendment is as follows:

On page 103, on line 6, strike "(D)" and insert ("E)".

On page 103, strike line 5 and insert the following:

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

On page 130, strike line 14 and insert the following:.

"SEC. 1430. PROVIDING FUNDING FOR AMERICAN SAMOA.

Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96-597 during that fiscal year.'.

SEC. 1431. EFFECTIVE DATE."

On page 152, line 7, strike "December 31, 1995" and insert "November 30, 1995".

On page 152, line 8, strike "January 1, 1996" and insert "December 1, 1995".

The PRESIDING OFFICER. Is there any further explanation of this amendment?

Mr. BYRD. Mr. President, may we have an explanation?

The PRESIDING OFFICER. The Chair has just requested that. I say to the Senator from West Virginia.

What is the explanation of the amendment.

Mr. EXON. This amendment allows pregnant women to stay on food stamps, if they otherwise are eligible for food stamps, even after 6 months if they cannot find a job. This treats pregnant women with their first child in the same manner as women who care for dependent children. The amendment is paid for by cuts in the standard deductions. The amendment saves money.

Without this change, pregnant women will be taken off food stamps in their third trimester of pregnancy if they cannot find a job.

That is a brief explanation of the amendment that has been agreed to.

The PRESIDING OFFICER. Is there objection to the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 3024) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

POINT OF ORDER

Mr. CHAFEE. Mr. President, the reconciliation bill contains a provision which would put the Hyde language permanently into law. This is the first time that this has been done. The Hyde language has always appeared in annual appropriations bills which are open to modification.

This provision, subsection 2123(g) of the Social Security Act, as added by section 7191(a) in the reconciliation measure, does not produce a change in outlays or revenues and is not necessary to implement a provision that does change outlays or revenues.

I, therefore, raise a point of order under section 313(b)(1)(a) of the Budget Act against that provision.

Mrs. MURRAY. Mr. President, I rise in strong support for the amendment offered by the Senator from Rhode Island, Senator CHAFEE, to strike certain restrictive language from the Medicaid block grant portion of this bill, and I am proud to be a co-sponsor of this important amendment. I consider the inclusion of this language to be yet another attack on poor women waged by this Congress, and I urge my colleagues to support this motion to strike.

The Medicaid block grant proposal approved by the Senate Finance Committee includes a provision which bars States from using Federal funds to pay for most abortions for poor women. The bill allows States to use Federal dollars to fund abortions only in cases of rape, incest or where the mother's life is in danger. This is not a new idea—we have seen restrictions like this one, known as the Hyde amendment, added to appropriations bills year after year. The key difference is that, now, this discriminatory ban could be made permanent—and I urge my colleagues to join us in ensuring this does not happen.

Including this ban as a component of Medicaid law is an unprecedented and alarming evolution in the attempt to restrict women's access to abortion, and will have devastating effects on the women who rely on the Medicaid program to provide health care coverage. Even more offensive, the target in this case is low-income women, who deserve the same access to critical reproductive health services available to other women in this country. If we do not strike this language from the bill, we are allowing Congress to single out poor women, and this sends a very strong message to the women of this country.

This ban is shortsighted, careless, and insulting to women across our Nation. Voting to include the Hyde language tells these women—we do not care. Without providing coverage for abortion services, we will be sending low-income and poor women straight to the back alley where they will be forced to choose unsafe alternatives and risky procedures—and make no mistake, Mr. President—women will die.

Women who receive an average of $400 a month from public assistance cannot raise the estimated $300 for a first-trimester abortion. What do you think a woman in this position will do? Will she divert money she should be spending on rent? Will she be forced to use the money she sets aside to feed herself or her child she already has? Or will she choose the cheaper, albeit unsanitary and dangerous, alternative? I do not want to place poor women in the position of having to make this kind of choice. It is wrong and it is cold-hearted.

And lastly, Mr. President, how does this federally-mandated restriction on how States can spend block granted funds fit into the mantra of the Republican reform agenda—State flexibility? This ban does not foster State innovation, and it certainly is not about getting Washington, DC out of local policy decision-making. In fact, this ban ties the State's hands and is really nothing short of the kind of Federal micromanagement the Republicans are usually so quick to attack.

I want to commend Senator CHAFEE for his commitment and his leadership on this issue. I know he tried to strike this restrictive and discriminatory language in Committee, but was unfortunately defeated. I thank him for trying again here on the floor, and I am proud to join in his efforts. I urge my colleageus to support this amendment.

Thank you.

The PRESIDING OFFICER. The time for the debate is over.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, pursuant to section 904(d) of the Budget Act, I move to waive the Budget Act for this provision if included in the conference report on this measure.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—55

Abraham	Biden	Brown
Ashcroft	Bond	Burns
Bennett	Breaux	Coats

Cochran	Grassley	McConnell
Conrad	Gregg	Murkowski
Coverdell	Hatch	Nickles
Craig	Hatfield	Pressler
D'Amato	Heflin	Reid
DeWine	Helms	Roth
Dole	Hutchison	Santorum
Domenici	Inhofe	Shelby
Dorgan	Johnston	Simpson
Exon	Kassebaum	Smith
Faircloth	Kempthorne	Thomas
Ford	Kyl	Thompson
Frist	Lott	Thurmond
Gorton	Lugar	Warner
Gramm	Mack	
Grams	McCain	

NAYS—44

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Nunn
Bradley	Inouye	Pell
Bryan	Jeffords	Pryor
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Campbell	Kerry	Sarbanes
Chafee	Kohl	Simon
Cohen	Lautenberg	Snowe
Daschle	Leahy	Specter
Dodd	Levin	Stevens
Feingold	Lieberman	Wellstone
Feinstein	Mikulski	

The PRESIDING OFFICER. On this vote, there are 55 yeas, 44 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is well taken.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3025

(Purpose: To strike the sale of 25 millions of barrels of Strategic Petroleum Reserve oil in order to protect our national energy security and to fully offset the revenue loss by imposing a 2.5 percent net smelter return royalty on certain hardrock mines)

Mr. EXON. Mr. President, I believe the next amendment to be brought up per agreement is Senator BUMPERS with a Strategic Petroleum Reserve amendment, and I yield the 30 seconds to Senator BUMPERS for the purpose of proposing the amendment and appropriate remarks.

Mr. DOMENICI. Did not the Chair have to rule on that?

The PRESIDING OFFICER. The Chair did rule. The provision has been stricken.

Mr. DOMENICI. I apologize to the Chair.

The PRESIDING OFFICER. The clerk will report the BUMPERS amendment.

The assistant legislative clerk read as follows.

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3025.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BUMPERS. Mr. President, in the last 133 years, the mining companies of America have mined $254 billion worth of gold and silver off Federal lands and have not paid 1 cent in royalty.

This amendment provides for a royalty of approximately 50 percent of what they pay in the private sector, and it offsets the sale of the Strategic Petroleum Reserve, which loses $600 million.

I agree with the Senator from Texas. It is time these corporate welfare people in the back of the wagon get out and help the rest of us pull it. I strongly urge your support.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this Senate has asked for 4 years for major mining law reform. In this legislation for the first time is a complete rewrite of the 1872 mining law, with new royalties, new reversionary clauses, and all that you have asked for and scored by CBO to yield $150 million.

You asked for mining law reform, and we have given it to you in a fair and balanced way that allows the public land to yield to the taxpayers what you would want it to yield.

I hope you would stay with us on this very important provision.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote is on the motion by the Senator from New Mexico to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—56

Abraham	Domenici	Lugar
Ashcroft	Faircloth	Mack
Baucus	Ford	McCain
Bennett	Frist	McConnell
Bingaman	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Heflin	Shelby
Chafee	Helms	Simpson
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Inouye	Thomas
D'Amato	Kassebaum	Thompson
Daschle	Kempthorne	Thurmond
DeWine	Kyl	Warner
Dole	Lott	

NAYS—43

Akaka	Dodd	Hollings
Biden	Dorgan	Jeffords
Boxer	Exon	Johnston
Bradley	Feingold	Kennedy
Bumpers	Feinstein	Kerrey
Byrd	Glenn	Kerry
Coats	Graham	Kohl
Cohen	Gregg	Lautenberg
Conrad	Harkin	Leahy
Levin	Nunn	Simon
Lieberman	Pell	Smith
Mikulski	Pryor	Snowe
Moseley-Braun	Robb	Wellstone
Moynihan	Rockefeller	
Murray	Sarbanes	

So the motion to table the amendment (No. 3025) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, how long was that last vote?

The PRESIDING OFFICER. Approximately 8 minutes. The Chair stands corrected: 11 minutes.

Mr. DOLE. That is what I thought. We have been running over 4 or 5 minutes on each vote. With five or six votes, that is a half hour. Again, let me say to my colleagues, this next time, we are going to shut it down. I hope we do not make anybody upset over it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The clerk can call the roll and record Senators better if Senators do not block the clerks' view. I ask again Senators not come into the well during the time the clerk is tallying the vote.

Mr. DOMENICI. Mr. President, I have two unanimous consent requests that I believe will be acceptable. Senator MIKULSKI asked us to approve a unanimous consent request in her behalf, and Senator NICKLES has a similar one in terms of what we would be agreeing to.

So I want to pose these unanimous consent requests. We agreed to Senator MIKULSKI's? Correct my remarks. We want to do the same for Senator NICKLES that we did for Senator MIKULSKI.

I ask unanimous consent that it be in order for Senator NICKLES, immediately after Senator MIKULSKI offers her motion to instruct, to move to instruct the conferees with reference to the Hyde amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Maryland.

MIKULSKI MOTION TO INSTRUCT CONFEREES

Ms. MIKULSKI. Mr. President, I send a motion to the desk on behalf of myself, Senator KASSEBAUM, Senator SNOWE, Senator BOXER, Senator FEINSTEIN, Senator MURRAY, and Senator MOSELEY-BRAUN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] moves to instruct the conferees on the part of the Senate to insist upon guaranteeing to the American public that the quality and effectiveness standards set forth by the Clinical Laboratory Improvement Amendments of 1988 will be maintained by striking

certain provisions in the House amendment relating to section 353 of the Public Health Service Act (standards that ensure quality in testing for risk factors such as a heart attack or stroke, kidney disease, prostate and colon cancer, gout and strep).

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Ms. MIKULSKI. Mr. President, the purpose is to instruct conferees to reject the provisions in the House bill to repeal the Clinical Lab Improvement Amendments of 1988.

Before 1988, clinical labs lacked uniform standards. Dirty labs were tolerated. Tests were misread. Diseases were misdiagnosed. Staff was inadequately trained and overworked. People died of sloppy work.

What does the House bill do? It repeals CLIA '88 for all physicians' labs except when the labs conduct Pap smears. I urge conferees to stick with the Senate position and to reject the House repeal of CLIA '88.

Let me tell my colleagues what CLIA is. And why it is so important.

CLIA '88 set for the first time uniform quality standards for all clinical labs. I am proud that this law, which I authored, was passed with broad bipartisan support.

CLIA was passed in 1988 and implemented in 1992 to address serious and life-threatening conditions in clinical labs.

To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to:

Turn back to a time when tests were misread and diseases misdiagnosed.

Turn back to the bad old days of misdiagnosis of the HIV/AIDS virus, when doctors were using inferior methods of reading slides; when people with the virus went undetected because the virus was mutating and was unrecognized by physicians.

Or turn back to a time when the lab technicians were overworked and undersupervised, when slides were taken home, when dirty labs were tolerated, when lab technicians had little or no formal training, resulting in many diseases going undetected.

My colleagues, CLIA works. It works because CLIA saves lives.

Prior to CLIA, women were dying after having pap smears misread 2 or 3 years in a row.

Prior to CLIA, complex tests for heart disease, conducted improperly, put patients at risk of serious impairment or death. As we know, medical conditions like heart disease not detected early, not only are more expensive to treat but result in certain disability or death.

Today, the stakes are high for quality lab tests and diagnosis. The need for quality testing for HIV and AIDS and the impact this has on our communities is without question. We are talking here about a matter of life and death.

CLIA ensures quality testing and quality laboratories.

For the first time, all labs that perform similar tests must meet similar standards, whether located in a hospital, a doctor's office or other site.

Americans must be assured that all labs are of the highest quality and performance standards.

CLIA saves tax dollars by curbing fraud and abuse.

An unexpected benefit of the CLIA law has been to weed out the most unscrupulous of labs that run scams and take advantage of the most vulnerable members of our society.

Today, CLIA is threatened. Why?

The House Reconciliation bill repeals CLIA for all physician labs except when the lab conducts pap smears. No hearings, no review of the Inspector General's report on the impact of CLIA, no opportunity for the public to respond.

The House even recognized the importance of CLIA by carving out one exemption—for labs that conduct pap smears.

My question is this: Does the Senate really want to tell somebody facing the prospect of heart attack or diabetes, that we do not care that your tests are performed adequately?

That we only care if quality standards are met for one particular test and not the entire battery of other life-saving tests being conducted? I do not think so.

Quality standards in labs are critical to saving lives. Uniformity is the key. Safe and effective standards are the goals of CLIA—no matter where the lab is located—in a hospital, doctor's office or other health setting.

My colleagues, the Senate position is right. The Senate wisely left CLIA alone.

Changes in CLIA should not be done in the context of Reconciliation, but should be done with careful and deliberate consideration in the Labor and Human Resources Committee.

CLIA is so important. We should not act hastily. To do otherwise, puts lives in danger, puts families at risk. I am not willing to take that chance, are you?

My motion is simple. Stick with the Senate position. Leave CLIA alone.

I urge support for the Mikulski motion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on this motion, because the House had some provisions to allow some flexibility for physicians to conduct tests in their offices.

Frankly, we are talking about some simple tests; in some cases, strep tests or blood tests. CLIA, the Clinical Laboratory Improvement Act, drives up the cost of doing a lot of these tests, in some cases makes it prohibitive to do it, so they have to send off the test to the bigger cities. That wastes time, it wastes money, it makes health care a lot more expensive and dangerous in many areas of the country.

The PRESIDING OFFICER. Time has expired.

Ms. MIKULSKI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—49

Akaka	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Gregg	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Pell
Bumpers	Hollings	Pryor
Byrd	Inouye	Reid
Chafee	Jeffords	Robb
Cohen	Johnston	Rockefeller
Conrad	Kassebaum	Sarbanes
Daschle	Kennedy	Simon
Dodd	Kerry	Snowe
Dorgan	Kohl	Specter
Exon	Lautenberg	Wellstone
Feingold	Leahy	
Feinstein	Levin	

NAYS—50

Abraham	Faircloth	McCain
Ashcroft	Frist	McConnell
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Pressler
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Kempthorne	Stevens
Craig	Kerrey	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	

So the motion was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMITH MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized to make a motion to instruct conferees.

Mr. SMITH. On behalf of the Senator from Oklahoma, [Mr. NICKLES] and myself, I send a motion to instruct conferees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the amendments to the bill S. 1357 be instructed to recede to the House amendment relating to the prohibition on federal funding for Medicaid Abortions except to save the life of the mother or in cases of rape or incest.

Mr. SMITH. Mr. President, the Chafee point of order, a few minutes ago, removed the Hyde language, which

is no Federal funding for abortions except in the case of rape, incest, or life to the mother, which has been on the books a long, long time.

Basically, the Nickles and Smith motion would instruct the conferees to preserve the status quo on Federal funding of abortions.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, the Senate just sustained a point of order, we are only going to reverse this and bring it up when the bill comes back. I hope you will vote against the motion.

The PRESIDING OFFICER. Does the Senator yield the balance of his time?

Mr. EXON. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—56

Abraham	Faircloth	Lugar
Ashcroft	Ford	Mack
Bennett	Frist	McCain
Biden	Gorton	McConnell
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Conrad	Heflin	Santorum
Coverdell	Helms	Shelby
Craig	Hutchison	Simpson
D'Amato	Inhofe	Smith
DeWine	Johnston	Thomas
Dole	Kassebaum	Thompson
Domenici	Kempthorne	Thurmond
Dorgan	Kyl	Warner
Exon	Lott	

NAYS—43

Akaka	Glenn	Moseley-Braun
Baucus	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Bryan	Jeffords	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Campbell	Kerry	Simon
Chafee	Kohl	Snowe
Cohen	Lautenberg	Specter
Daschle	Leahy	Stevens
Dodd	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

So the motion was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. It is my understanding and agreement with the chairman I will recognize the Senator from North Dakota and yield to him for 30 seconds.

CONRAD MOTION TO COMMIT

Mr. CONRAD. I have a fair share balanced budget plan at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], moves to commit.

Mr. CONRAD. I ask unanimous consent reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with the following changes to legislation in the Committee's jurisdiction:

(1) Modify the medicare provision to achieve $156,000,000,000 in savings instead of the excessive $270,000,000,000 in the Republican plan.

(2) Modify the medicaid provisions to achieve $125,000,000,000 in savings instead of the excessive $182,000,000,000 in the Republican plan.

(3) Modify the welfare provisions to achieve $26,000,000,000 in savings instead of the excessive $65,000,000,000 in the Republican plan.

(4) Modify the tax provisions by eliminating the tax cuts totalling $245,000,000,000 and instead raise revenue beyond the corporate welfare provisions in title XII be eliminating $228,000,000,000 in tax loopholes, breaks, and preferences without affecting taxpayers with incomes below $140,000.

The changes in the legislation shall be made in a manner that achieves the same deficit or surplus in fiscal year 2002 as the current bill, balances the budget without counting Social Security surpluses in 2004, and accomplishes the following:

(1) A reduction in agriculture programs by no more than $4,000,000,000 instead of the $13,000,000,000 reduction in the Republican plan.

(2) A reduction in food and nutrition programs by no more than $19,000,000,000 instead of the $35,000,000,000 reduction in the Republican plan.

(3) No reductions in student loan programs instead of the $10,000,000,000 reduction in the Republican plan.

(4) A reduction in veterans programs by no more than $5,000,000,000 instead of the $6,000,000,000 reduction in the Republican plan.

(5) No reductions in domestic discretionary programs beyond a hard freeze instead of slashing investments in our economic future $191,000,000,000 below a hard freeze as in the Republican plan.

Mr. CONRAD. Mr. President, we previously voted on my plan during consideration of the budget resolution. I received 39 votes. Today, if we held a vote, I might add a few votes to that total but I am under no illusion that I would prevail.

In order to spare my colleagues another rollcall vote and in the fleeting hope that I might inspire some of my other colleagues to withdraw amendments that are not absolutely necessary we vote on this evening, I withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

So the motion was withdrawn.

Mr. EXON. Mr. President, I thank my friend and colleague for his fine statement.

I might suggest we move two other matters I understand we have clearance on—the Lott amendment and the Bingaman amendment.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, I ask unanimous consent on behalf of Senator HELMS that on rollcall vote 520 wherein he voted no be changed to aye. He made a mistake, and the changing of this vote will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3026

(Purpose: To eliminate reasonable cost reimbursement under the Medicare Program of legal fees after an unsuccessful appeal of denied claims)

Mr. DOMENICI. On behalf of Senator BINGAMAN and myself, I offer an amendment looked at by our Finance Committee, and which is obviously satisfactory on that side.

We believe the Medicare law already prohibits payments to providers for legal fees when the providers lose an appeal.

However, the GAO has reported some loopholes in the Medicare law so that this might not be the effect out in the field—even losers may collect losers' fees.

This will correct the situation. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN proposes an amendment numbered 3026.

Mr. EXON. Mr. President I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 139x(v)(1)(R) is amended by striking "section 1869(b)" and inserting "section 1869(a) or (b)".

Mr. BINGAMAN. Mr. President, the purpose of this amendment is to prohibit the payment of legal expenses to providers when they appeal the denial of a claim or cost adjustment and lose that appeal. Providers would still be able to recover other legal expenses, including the cost of an appeal if they prevail on the appeal under the provisions of this amendment.

The amendment would save money for Medicare part A and prevent a potentially large abuse of the current system. The Federal Government should not be paying for individuals or corporations to sue the Federal Government especially when they sue and lose their appeal.

Mr. EXON. Mr. President, I yield back our 30 seconds. I agree with the understanding that has been made.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 3026) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

(Purpose: To amend the Civil War Battlefield Commemorative Coin Act of 1992, and for other purposes)

Mr. DOMENICI. On behalf of Senator LOTT and Senator JEFFORDS, I send another amendment to the desk.

This is to amend the Civil War Battlefield Commemorative Coin Act of 1992, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. LOTT, for himself, and Mr. JEFFORDS proposes an amendment numbered 3027.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern Hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7) not more than $250,000 to acquire sites at Berryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and;

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

Mr. LOTT. Mr. President, the Congress passed commemorative coin legislation in 1992. These funds were to be used for the preservation and acquisition of Civil War battlefields.

Proceeds from the sale of the coins have been accumulating in the trust fund, rather than being spent to purchase land.

This amendment will not add to the deficit; it merely will require that these funds be used for their original purposes.

Under this amendment, the funds would be used to purchase land only in places where there is already a commitment of private matching funds. The $4.8 million designated here will purchase $24.1 million in battlefield land; that is 20 percent coin revenues leverages the remaining 80 percent from other sources.

If these funds are not expended, options on the land will be lost and the battlefields will be developed rather than preserved.

Mr. EXON. I have to advise my colleague, I thought this was cleared. I am now advised we have one Senator that has asked to be consulted on this yet.

I am wondering if we could hold this up momentarily.

Mr. DOMENICI. Mr. President, I wonder if we could accept the amendment without reconsideration.

Mr. EXON. I apologize. I thought it was cleared. I think we can clear it if we can hold it over temporarily.

Mr. DOMENICI. I ask unanimous consent that it be temporarily set aside, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I believe the next amendment is another amendment by the Senator from Arkansas with regard to asset sales. For the purpose of introducing that amendment and explaining it, I yield our 30 seconds to the Senator from Arkansas.

AMENDMENT NO. 3028

(Purpose: To restore fiscal sanity to the budget process by prohibiting the scoring of asset sales to ensure that taxpayers are adequately protected)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY, proposes an amendment numbered 3028.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

Mr. BUMPERS. Mr. President, from 1987 until 1995 we had a specific prohibition against scoring asset sales for a very good reason. You cannot balance the budget by selling off all our assets. It is like Rudolph Penner who talked about the lawyer coming home one night and told his wife he had a great day. She said, "What happened?" He said, "I sold my desk."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, did we miss something?

Mr. EXON. Yes. But it is all right.

Mrs. MURRAY. Mr. President, I rise in support of the asset sale scoring prohibition amendment jointly offered by Senators BUMPERS, BRADLEY, and me.

The budget resolution before us has been termed an historic document. It certainly is. For the last decade, the Congress of the United States has recognized that our public lands and other Federal assets were too precious to sell or lease unless Congress or the Administration decided that so doing was in the best interest of the public. That is good policy and one that traditionally has enjoyed strong bi-partisan support.

But it is a new day. Today, we may well vote to sell our children's heritage to pay our debts. I reject this approach to debt reduction and I reject this approach to disposition of our Federal assets.

While this bill only puts up for sale the rights to develop oil and gas in the Arctic National Wildlife Refuge, these wilderness lands are only the beginning. Other public lands, national treasures and assets are being proposed for sale in the House budget reconciliation bill and more likely will be targeted next year and the year after. Henceforth, unless this amendment is adopted, any public lands or Federal assets can be sold for the quick cash and political capital gained from balancing the budget in a given year. It is a dangerous, bad precedent.

Mr. President, our assets should not be sold simply to reduce the deficit. Instead, our Federal assets should be sold only when, after reasoned debate and a full public airing, we decide their sale is in the best interest not only of our generation—but of every generation that follows. We owe our children much more than a balanced budget. We owe them their heritage.

Mr. President, I urge my colleagues to support our important amendment and thwart efforts to sell our heritage for quick cash.

Mr. BRADLEY. Mr. President, I rise in support of the Bumpers/Bradley amendment to restore the traditional method of scoring asset sales that the Congress changed last June in the Budget Resolution. The change allows Congress to count the sale of public assets—parks, powerplants, buildings,

the Arctic National Wildlife Refuge, even oil in national storage facilities —as deficit reductions despite the fact that such sales are actually money-losers.

This budgetary innovation opened the floodgates for proposals to unload valuable Federal assets in return for the fast buck, often at fire-sale prices. Many of these proposals, in fact, will lead to reduced revenues in the future, and higher deficits. This approach relies on political myopia—a simple-minded scoring of sales revenue within the limited budget window—and fails to withstand the straight face test. Only by railroading these proposals through the Senate, under the very restrictive and controlled conditions of budget reconciliation, would many of these proposals ever have a chance of becoming law.

The Energy Committee's title is loaded down with asset sales that follow the same pattern. While they produce deficit reductions in their first few years, as valuable assets are sold off, after a few years the pattern reverses and deficit reductions are turned into increases. In most cases the red ink continues far out into the future, easily dwarfing the deficit reductions of the early years. Thus asset sales are both short term and short sighted.

Why we produce these budget resolutions in the first place? The reason is not to balance the budget. If it were, I am sure we could create some appropriate fiction which showed budgetary balance by definition.

But that is not what we were supposed to be doing here. We are supposed to be systematic. We are supposed to be honest. We are supposed to be consistent. We are supposed to address the substantive, structural issues which keep the Federal Government spending—year in, year out—more money than it takes in.

So what do we have here, buried deep in this bill? We have a trick, a gimmick. We cut spending, by redefining what a cut is. Now, for the first time since we gave this budget process teeth—with the passage of Gramm-Rudman—we can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve, and chalk that up to deficit reduction.

This asset sale formula leads to all sorts of questionable proposals. Because even outrageously low sales prices would still score as deficit reductions for the short period of the budget window, asset giveaways could receive a budget blessing.

In fact, I doubt that any business accountant or economist would agree with the underlying budgetary premise—that liquidating public assets adds to public wealth. If I sell my stock portfolio and put the returns in my checking account, do I become wealthier? Have I protected my children? It may make sense to sell my stocks, but the transaction itself produces no wealth—except for my broker.

Consider the Arctic National Wildlife Refuge. We can lease the Refuge to oil developers and sell any oil that might be underground to them. We will get some money. The companies will get the rights to oil. If they find oil, probably it will be shipped to the Pacific rim and burned completely. Have we done a lot for our kids? You must be joking.

At best, we can claim for our children a neutral financial transaction. But what about the larger issues? If we go ahead with the development of ANWR, we damage probably irrevocably a unique, world-class ecosystem. We consume utterly a non-renewable resource. We get some cash.

If we forego the drilling of ANWR, we preserve intact this ecosystem. We preserve intact any oil underground and the possibility of future development. We do not get the cash.

I, frankly, reject any claim that our children will thank us for using up this oil and running oil rigs and oil pipelines across the Arctic Plain.

Mr. President, what the American public expects, and what our children expect, is for us to get our fiscal house in order. Our children are not asking us to sell off their collective inheritance. Our children are not asking us to look narrowly at some budget window and forget that many of these assets produce public value—and I do not just mean financial value—beyond the window.

When one Member from the other side of the aisle, Senator CRAIG, considered this issue as a House Member, he said, "Asset sales are in fact blue smoke and mirrors at best. If they are to happen, they should be set off budget." Exactly right.

Mr. DOMENICI. I do not think I will even address the amendment.

Mr. President, the amendment does not produce a change in outlays or revenues and is not necessary to implement the provisions of this budget. Therefore, I raise a point of order that the amendment violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—49

Akaka	Feingold	Lieberman
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Chafee	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Snowe
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	
Exon	Levin	

NAYS—50

Abraham	Gorton	McCain
Ashcroft	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Frist	Mack	

The PRESIDING OFFICER. On the motion, the yeas are 49, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

Mr. DOMENICI. Mr. President, I believe we laid aside the Lott-Jeffords amendment with reference to Federal commemorative coins. I think we have clearance from the Senator that they have approved it: is that correct?

Mr. EXON. That is correct.

Mr. DOMENICI. So we ask we proceed with it.

I yield back my time on it.

Mr. EXON. I yield back my time and call for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3027 offered by the Senator from Mississippi.

The amendment (No. 3027) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2942

(Purpose: To amend the Congressional Budget Act of 1974 to extend the hours of debate permitted on a reconciliation bill)

Mr. EXON. Mr. President, the next in order, according to the list that we have agreed to, is recognition of the Senator from West Virginia for an amendment.

I yield our 30 seconds to him for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. BYRD. I thank the Chair. I ask that the amendment be called up at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2974.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I know of no legal or constitutionally binding reason why the Senate has to ever pass a reconciliation bill. It may have some budgetary consequences if the Senate does not. But as long as we are going to pass such a bill—and I assume that we will continue to do so for a while—we should lengthen the time for debate.

This is not a partisan amendment. It is not a political amendment. It is for the good of the institution——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. The budget process, and the good of the American people.

I hope Senators will vote for this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President and fellow Senators, it is with greatest respect and some degree of sorrow that I have to raise the Byrd rule against the amendment.

But Senator BYRD has made sure under the rules that you cannot change the budget or the Budget Act without sending the matter through the committee of jurisdiction. So this amendment will increase from 20 to 50 hours the time limitation on debate on future reconciliation measures; increase the time limitation from 10 to 20 hours on Senate consideration of conference reports; and, therefore, it violates the Budget Act.

I make a point of order against it.

Mr. BYRD. Mr. President, I believe the clerk read the wrong amendment.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Chair will correct it. The amendment is 2942, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. DORGAN, proposes an amendment numbered 2942.

The text of the amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL AND CONFERENCE REPORT.

(a) CONSIDERATION OF A BILL.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by striking "20 hours" and inserting "50 hours".

(b) CONSIDERATION OF A CONFERENCE REPORT.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "Debate in the Senate on a conference report on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.".

Mr. DOMENICI. Does the Senator want to do this one?

Mr. BYRD. I want the amendment that I wanted called up.

Mr. DOMENICI. We assumed that was the amendment.

I ask for 30 seconds.

Mr. BYRD. This is the amendment that extends the time for debate from 20 to 50 hours on reconciliation measures and from 10 to 20 hours on conference reports.

Mr. DOMENICI. Mr. President, that is what I addressed. That violates the Byrd rule, and I, therefore, raise a point of order against the amendment under section 313(b)(1)(A) of the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the consideration of the pending amendment.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—47

Akaka	Feinstein	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Heflin	Murray
Breaux	Hollings	Nunn
Bryan	Inouye	Pell
Bumpers	Jeffords	Pryor
Byrd	Johnston	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Simon
Exon	Lautenberg	Wellstone
Feingold	Leahy	

NAYS—52

Abraham	Chafee	DeWine
Ashcroft	Coats	Dole
Bennett	Cochran	Domenici
Bond	Cohen	Faircloth
Brown	Coverdell	Frist
Burns	Craig	Gorton
Campbell	D'Amato	Gramm
Grams	Lott	Simpson
Grassley	Lugar	Smith
Gregg	Mack	Snowe
Hatch	McCain	Specter
Hatfield	McConnell	Stevens
Helms	Murkowski	Thomas
Hutchison	Nickles	Thompson
Inhofe	Pressler	Thurmond
Kassebaum	Roth	Warner
Kempthorne	Santorum	
Kyl	Shelby	

The PRESIDING OFFICER. On this motion, the ayes are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion fails.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. STEVENS. Mr. President, on rollcall vote No. 539, I voted "aye." It was my intention to vote "no." Therefore, I ask unanimous consent to change my vote. It will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have been waiting to do the Biden amendment. I understand that has been worked out. So I yield at this time to Senator BIDEN for the offering of his amendment, including the 30 seconds which is a part of my time.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3029

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 3029.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as

a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

Mr. BIDEN. Mr. President, following the admonition of Senator Long years ago, if the amendment is accepted, I have nothing to say.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

So the amendment (No. 3029) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXON POINT OF ORDER

Mr. EXON. Mr. President, the next item on the agenda is the Exon point of order with regard to the Byrd rule.

Because of the Budget Act of 1974, I raise a point of order that several provisions——

Mr. BYRD. Mr. President, may we hear the Senator on this very important matter?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Senate will please come to order. The Senator from Nebraska has 22 seconds remaining.

Mr. EXON. Mr. President, pursuant to section 313(d) of the Congressional Budget Act of 1974, I raise a point of order that several provisions in the list I now send to the desk are extraneous and violate the Byrd rule, section 313(b)(1) of that act.

My point of order objects to about 50 provisions that the Parliamentarian has confirmed violate the Byrd rule against extraneous matter in reconciliation because they have nothing to do with deficit reduction, worsen the deficit, or otherwise violate the rule.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might request of the Senator from Nebraska, this is a very important subject matter and the Senator has been selective. There are many. I wonder, if the Senator would give us a little time to review it.

Mr. EXON. Yes, I will be glad to do that.

Mr. DOMENICI. We will not take a long time. We would like to review it and discuss it with the Senator.

Mr. EXON. That is perfectly reasonable.

Mr. DOMENICI. I thank the Senator.

Mr. EXON. We will lay that temporarily aside.

The PRESIDING OFFICER. Without objection, the point of order will be set aside.

Mr. EXON. Mr. President, the next amendment is an amendment that the Senator from Arkansas is prepared to offer—I do not see the Senator from Arkansas on the floor—with regard to mining payments and royalties. I have not been advised by the Senator he does not wish to offer the amendment.

Mr. President, I advise my friend from Arkansas that he is up next on the mining patents and royalties amendment. Does the Senator wish to offer that amendment?

Mr. BUMPERS. I do.

Mr. EXON. I yield 30 seconds of my time to the Senator from Arkansas for that purpose.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3030

(Purpose: To clarify the Senate's intent that hardrock mining companies pay fair market value for the purchase of Federal lands and minerals pursuant to the 1872 mining law and to strike the sham hardrock mining industry sponsored royalty provisions from the bill which would continue the giveaway of taxpayer owned minerals to some of the richest companies in the world)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY, proposes an amendment numbered 3030.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike "for" on line 4 of page 369 through "thereby" on line 19 on page 395.

Mr. BUMPERS. Mr. President, there is some confusion about what fair market value is in this bill. This amendment simply says that the mining industry, when they apply for patents from the Interior Department for land, will pay fair market value.

Fair market value means just what it says: Land and minerals. Is that fair? All you have to do is vote "aye" and the U.S. Government will receive fair market value.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, this is the same item we have already dealt with in budget reconciliation. In fact, we already voted on this. It will be a repeat of the same amendment my friend from Arkansas proposed previously.

Given Senator BUMPERS' rhetoric and the "we only print one-side of the issue" perspective of the national media, it is difficult to get a clear understanding of what's going on with mining law reform in the 104th Congress.

Senator BUMPERS, Secretary of the Interior Bruce Babbitt, and the national media are long on mining law rhetoric but short on substance.

Senator BUMPERS often argues the goal of mining law reform should be significantly revise patenting, to impose a royalty on the production of hardrock minerals, and to establish a mechanism to clean up abandoned mines throughout the country.

I happen to agree, but would quickly add one more essential point. Any reform bill passed by Congress should also aim to preserve the economic foundation of hardrock mining in this country—a critical industry that provides high-paying jobs for tens of thousands of American men and women.

It is on this point that legislation sponsored by mining critics like Mr. BUMPERS falls flat on its face. The punitive royalties and onerous environmental provisions he favors would make future mining on Federal lands nearly impossible.

Economic analyses of Senator BUMPERS' comprehensive mining law reform legislation, including in-house studies done by the Department of the Interior, conclude that the punitive royalty supported by Senator BUMPERS will cost thousands of U.S. jobs. His legislation would shift exploration and development capital over seas, export U.S. jobs, decrease our tax base, and increase our balance of trade deficit.

I take strong exception to criticisms that members representing western mining States oppose mining law reform legislation. What we oppose is punitive legislation that would cause unnecessary economic harm to rural mining communities across working America.

In our effort to impose a royalty on the hardrock mining industry we should not presume that more is better.

One would hope that Congress would learn from history. In 1990, when Congress enacted the Omnibus Budget Reconciliation Act, we imposed a significant tax on luxury items, including high-end luxury yachts. Unfortunately, instead of taxing the rich, this recklessness destroyed the yacht building industry and eliminated thousands of jobs in this country.

In addition, we should learn from our foreign competitors. In 1974, British Columbia enacted the Mineral Royalties Act, which imposed royalties on mines located on Crown Lands and the Mineral Land tax Act which subjected owners of private mineral rights to royalties equivalent to those applied to Crown Lands. The result was a disaster.

During the period the royalty was in effect, no new mines went into production and several mines closed. Two years later, after thousands of mine related jobs were lost, the royalty was repealed.

Should the hardrock mining industry pay a royalty to the Federal Government? The answer is yes. But let's not make it so punitive that we destroy the industry or run it off-shore. We need to remember, just like Arkansas rice farmers, the domestic mining industry must compete in a worldwide market.

At the outset of the 104th Congress, I cosponsored the Mining Law Reform

Act of 1995 (S. 506), a bipartisan bill that recognizes the world of change in which we now live. The bill balances economic reality with the environmental concerns facing today's hardrock mining industry. I've actively pursued enactment of this legislation during the past several months.

It's worth noting that Secretary of the Interior Bruce Babbitt continues to issue press releases decrying the shortcomings of the existing mining law. Yet he offers no reform proposal of his own. Why? Very simply, it is much easier to be critical than to be constructive.

It's no secret this is a divisive issue. In an effort to strike an acceptable compromise, the Senate Energy Committee included mining law reform provisions in its budget reconciliation package.

Those provisions represent significant compromise by both sides in this debate.

For the first time in history, the legislation would require miners to pay fair market value for the surface estate of patented land.

For the first time in history, the legislation requires patented land used for nonmining purposes to revert back to the Federal Government.

This would end the so-called Federal land give-away.

For the first time in history, miners would be required to pay a royalty to the Federal Government for the production of minerals on Federal land.

The Congressional Budget Office estimates the royalty will generate over $36 million dollars during the first 7 years. As new projects come into production, revenues received from the royalty are expected to increase to $25-$50 million per year.

Finally, for the first time in history, we would create an abandoned mine land fund [AML fund], establishing a mechanism to clean up old mines, many of which were abandoned in the 1800's.

The program will be financed by one half of the royalty receipts. As royalty revenues increase, funds for the AML fund will also grow.

The legislation contained in the committee's reconciliation package answers the urgent call for increased Federal revenue without adding layers of crippling new Federal regulations or usurping the rights and responsibilities of individual States to oversee mining operations within their own jurisdictions.

Simply put, it would significantly revise the existing patenting system; impose a royalty on the production of minerals; and create a mechanism to fund the cleanup of abandoned mines; all while allowing Americans to enjoy the benefits of a strong domestic mining industry.

It's time for mining critics to stop the rhetoric and begin working to enact reform.

Senator BUMPERS' amendment is not a good faith effort at enacting responsible reform. His claims of a Federal land give-away cannot hold water in the face of the dual requirements in budget reconciliation of fair market value for the surface of patented lands and a royalty on produced minerals from the subsurface.

The time is right for reform. The language in the budget reconciliation package represents comprehensive reform that ends the so-called Federal give-away, and according to CBO, raises $148 million dollars.

I urge critics of the mining industry to support the mining law provisions in the budget reconciliation package and oppose the amendment being offered by Senator BUMPERS.

Mr. DOMENICI. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3030. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—55

Abraham	Dole	Mack
Ashcroft	Domenici	McCain
Baucus	Faircloth	McConnell
Bennett	Frist	Murkowski
Bingaman	Gorton	Nickles
Bond	Gramm	Pressler
Breaux	Grams	Reid
Brown	Grassley	Roth
Bryan	Hatch	Santorum
Burns	Hatfield	Shelby
Campbell	Heflin	Simpson
Chafee	Helms	Specter
Coats	Hutchison	Stevens
Cochran	Inhofe	Thomas
Coverdell	Kassebaum	Thompson
Craig	Kempthorne	Thurmond
D'Amato	Kyl	Warner
Daschle	Lott	
DeWine	Lugar	

NAYS—44

Akaka	Graham	Mikulski
Biden	Gregg	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bumpers	Inouye	Nunn
Byrd	Jeffords	Pell
Cohen	Johnston	Pryor
Conrad	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dorgan	Kerry	Sarbanes
Exon	Kohl	Simon
Feingold	Lautenberg	Smith
Feinstein	Leahy	Snowe
Ford	Levin	Wellstone
Glenn	Lieberman	

So the motion to lay on the table the amendment (No. 3030) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3031

(Purpose: To modify the estate tax reform proposals by striking the provisions excluding up to $3.25 million in business assets from the estate tax and by inserting a package of reforms specifically designed to ease the burden of estate taxes for true small businesses and family farms)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 3031.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking "$345,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate."

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.",

(2) by striking subparagraph (B),

(3) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(4) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

On page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall

prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Mr. EXON. I yield 30 seconds if the Senator would like to have it.

Mr. BRADLEY. Mr. President, under the pending bill, estates worth $5 million or more would receive a tax break of $1.7 million. This is because the bill effectively shields the first $3.25 million from tax.

This amendment would strike these provisions and substitute a package of reforms that are designed to ease the burden of estate taxes on true small businesses and family farms.

Mr. DOLE. The estate tax provision of the bill has strong bipartisan support. I think 20 to 30 Senators—we had this discussion in committee. We believe we are on the right track, trying to save farms, ranches, small businesses held by one family, two families or three families.

Mr. DOMENICI. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—72

Abraham	Frist	Mack
Ashcroft	Glenn	McCain
Baucus	Gorton	McConnell
Bennett	Gramm	Murkowski
Biden	Grams	Murray
Bingaman	Grassley	Nickles
Bond	Gregg	Nunn
Brown	Harkin	Pell
Bryan	Hatch	Pressler
Burns	Hatfield	Pryor
Campbell	Heflin	Reid
Chafee	Helms	Roth
Coats	Hutchison	Santorum
Cochran	Inhofe	Shelby
Cohen	Inouye	Simon
Coverdell	Johnston	Simpson
Craig	Kassebaum	Smith
D'Amato	Kempthorne	Snowe
DeWine	Kerrey	Specter
Dole	Kohl	Stevens
Domenici	Kyl	Thomas
Exon	Lieberman	Thompson
Faircloth	Lott	Thurmond
Ford	Lugar	Warner

NAYS—27

Akaka	Dorgan	Leahy
Boxer	Feingold	Levin
Bradley	Feinstein	Mikulski
Breaux	Graham	Moseley-Braun
Bumpers	Hollings	Moynihan
Byrd	Jeffords	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Lautenberg	Wellstone

So the motion to lay on the table the amendment (No. 3031) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I tell all that we are moving along at a reasonably rapid pace.

The next amendment is the last amendment that I have for Senator BRADLEY of New Jersey.

I yield my 30 seconds to him.

AMENDMENT NO. 3032

(Purpose: To provide additional funds to the medicaid program by using the revenues resulting from the disallowance of deductions for advertising and promotional expenses for tobacco products)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. HARKIN, proposes an amendment numbered 3032.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

"(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995."

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable year beginning after December 31, 1995.

Mr. BRADLEY. Mr. President, the amendment that I have offered denies a tax deduction for the expense of advertising tobacco products. Federal savings of $3.2 billion would be used to offset cuts in Medicaid. Currently tobacco manufacturers deduct the cost of their advertisements from their taxable income. In other words, it favors the Joe Camel ad. This amendment would eliminate that deduction.

The amendment would not prohibit tobacco manufacturers from advertising their products. It only removes the Federal subsidy through the Tax Code for their advertising.

Mr. FORD. Mr. President, this denies a legitimate business from taking a deduction under legitimate costs. And it will go to all companies in the future, if we allow this one to prevail.

So, Mr. President, I raise a point of order against the pending amendment. It violates section 305(b) of the Congressional Budget Act of 1994 because it is not germane.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1994, I move to waive the applicable sections of the act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 22, nays 77, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—22

Bennett	Glenn	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Hatch	Pell
Bradley	Hatfield	Rockefeller
Bumpers	Hollings	Snowe
Byrd	Kennedy	Wellstone
Cohen	Kerry	
DeWine	Lautenberg	

NAYS—77

Abraham	Craig	Grams
Akaka	D'Amato	Grassley
Ashcroft	Daschle	Gregg
Baucus	Dodd	Heflin
Biden	Dole	Helms
Bond	Domenici	Hutchison
Breaux	Dorgan	Inhofe
Brown	Exon	Inouye
Bryan	Faircloth	Jeffords
Burns	Feingold	Johnston
Campbell	Feinstein	Kassebaum
Chafee	Ford	Kempthorne
Coats	Frist	Kerrey
Cochran	Gorton	Kohl
Conrad	Graham	Kyl
Coverdell	Gramm	Leahy

Levin	Nickles	Simon
Lieberman	Nunn	Simpson
Lott	Pressler	Smith
Lugar	Pryor	Specter
Mack	Reid	Stevens
McCain	Robb	Thomas
McConnell	Roth	Thompson
Mikulski	Santorum	Thurmond
Moynihan	Sarbanes	Warner
Murkowski	Shelby	

The PRESIDING OFFICER (Mr. STEVENS). On this vote, there are 23 yeas, 76 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order has been sustained, and the provision fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3033

(Purpose: To limit the capital gains deduction to gain on assets held for more than 10 years and to impose a $250,000 lifetime limit)

Mr. EXON. Mr. President, I am pleased to report that two Senators have been successful in working together to offer two amendments in a joint form. The two Senators are Senator DORGAN and Senator HARKIN. I yield each of them 30 seconds as per the previous arrangement.

Mr. DORGAN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. The clerk will still report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 3033.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DORGAN. Mr. President, this amendment is very simple. It changes the capital gains portion of the legislation. It would provide that if you hold an asset for 10 years, this would exclude up to $250,000 of capital gains—an exclusion, twice as much benefit for the first quarter of a million dollars in capital gains. But that is what the limit would be. It actually saves $10 billion over the capital gains provisions in the bill.

I yield to Senator HARKIN for the explanation of the second provision in the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is the so-called Benedict Arnold amendment. Many of the very wealthy individuals who renounce their U.S. citizenship then later reside in the United States for up to 180 days. Under this amendment, such individuals would resume paying taxes in the United States as if they were resident aliens similar to U.S. citizens if they would stay in the United States for 30 days.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senator has 30 seconds.

Mr. DOMENICI. As to Senator HARKIN's portion of the bill, let me remind Senators, Senator MOYNIHAN had put this provision together. And it strikes an appropriate balance. This would essentially do away with the Moynihan balance in this bill.

The Dorgan part of this limits the capital gains tax to a lifetime of $250,000. This would be incredibly difficult to keep track of and almost impossible to enforce if it was fair.

I move to table both amendments. They are both en bloc.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the amendment numbered 3033. This is on both amendments in tandem.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—66

Abraham	Glenn	Lugar
Ashcroft	Gorton	Mack
Baucus	Graham	McCain
Bennett	Gramm	McConnell
Biden	Grams	Moseley-Braun
Bond	Grassley	Moynihan
Bradley	Gregg	Murkowski
Breaux	Hatch	Nickles
Brown	Hatfield	Nunn
Bryan	Heflin	Pell
Burns	Helms	Reid
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Shelby
Cochran	Johnston	Simpson
Coverdell	Kassebaum	Smith
D'Amato	Kerrey	Specter
DeWine	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Levin	Thompson
Faircloth	Lieberman	Thurmond
Frist	Lott	Warner

NAYS—33

Akaka	Exon	Leahy
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Bumpers	Ford	Pressler
Byrd	Harkin	Pryor
Cohen	Hollings	Robb
Conrad	Inouye	Rockefeller
Craig	Kempthorne	Sarbanes
Daschle	Kennedy	Simon
Dodd	Kerry	Snowe
Dorgan	Lautenberg	Wellstone

So, the motion to lay on the table the amendment (No. 3033) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the next amendment is an amendment by Senator FEINGOLD, from Wisconsin, with regard to tax loopholes. I yield to him at this time the 30 seconds we have for each amendment.

The PRESIDING OFFICER. Senator FEINGOLD.

AMENDMENT NO. 3034

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for mercury, uranium, lead and asbestos)

Mr. FEINGOLD. Mr. President, on behalf of myself, Senator WELLSTONE and Senator BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. WELLSTONE, and Mr. BUMPERS, proposes an amendment numbered 3034.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) General Rule.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or unranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestocs (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by inserting after subparagraph (C) the following new subparagraph:

(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, this amendment eliminates the special 22 percent percentage depletion allowance for certain mine substances—asbestos, lead, mercury, and uranium.

It would allow mining companies to deduct only the cost of their capital investments as other businesses have to do. The amendment would save $83 million over 5 years, and the bulk of this tax break goes to lead mining. I do not think that makes any sense to have this kind of subsidy when State and local and Federal health officials and environmental agencies are spending precious resources for lead abatement and testing.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to use my 30 seconds. I just now make a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—43

Akaka	Graham	Moseley-Braun
Biden	Gregg	Moynihan
Boxer	Harkin	Murray
Bradley	Hollings	Nunn
Bumpers	Inouye	Pell
Byrd	Jeffords	Pryor
Chafee	Kennedy	Robb
Cohen	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Simon
Dodd	Lautenberg	Smith
Dorgan	Leahy	Snowe
Exon	Levin	Wellstone
Feingold	Lieberman	
Feinstein	Mikulski	

NAYS—56

Abraham	Faircloth	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Bingaman	Gorton	Murkowski
Bond	Gramm	Nickles
Breaux	Grams	Pressler
Brown	Grassley	Reid
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Heflin	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Johnston	Thomas
D'Amato	Kassebaum	Thompson
DeWine	Kempthorne	Thurmond
Dole	Kyl	Warner
Domenici	Lott	

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

CHANCE OF VOTE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on the Bradley amendment No. 3032 be changed from "yea" to "nay." This request will not change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

CHANCE OF VOTE

Ms. MOSELEY-BRAUN. On rollcall vote No. 548, I voted "no." It was my intention to vote "yea." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I wonder if we can take a short reading on what may be happening tonight or tomorrow.

I have had a discussion with the distinguished Democratic leader, Senator DASCHLE, and I think he is prepared to give us a fairly optimistic report on amendments left on that side.

I will be happy to yield to the Democratic leader.

Mr. DASCHLE. Mr. President, I have consulted with colleagues, and I think we are down to five amendments. One of those may fall. We are within reach now. That is the total on our side.

Mr. DOLE. Mr. President, I think on this side we have just the Finance Committee amendment. As I have indicated, there would be some additional debate on that—probably not more than 10 minutes will be allotted—because it is a 46-page amendment.

I know the Senator from Florida was suggesting additional debate time.

I say to my colleagues, if we can move as quickly as we can here and finish this bill at a reasonable time tonight, we will not be in tomorrow and we will be not be in on Monday. I think it would depend on how quickly we can complete action on the bill.

In addition, we are now looking at the Byrd-Exon package on different matters that have been subjected to the Byrd rule. We have not had that list very long, but we have people working on it now to match it against our list to see why some are left out and some are put in. It is a rather selective list.

I suggest that may require some additional votes. I am not certain.

Mr. DASCHLE. Would the majority leader yield?

Mr. DOLE. I yield.

Mr. DASCHLE. Did I hear the majority leader say if we can expedite this and come to final passage tonight on the bill, we would not be in session on Monday. Is that correct?

Mr. DOLE. That is correct. We have some conference reports, but I think they can be disposed of very quickly on Tuesday morning.

I have also discussed this with the distinguished Senator from West Virginia, who has a very important appointment on Monday. I want to try to accommodate every Senator where I can. I think I can.

Mr. DOMENICI. Might I discuss the points of order that were submitted as a package by Senator EXON?

Senator, as you might know, since it is a very selective list, it has caused a lot of concern on our side; some are just working with me to see what they want to do about it. The first step we are taking so we will know is, we are comparing your selected list with our list to first find out whether there are any that we do not think should be in there.

We would like to handle those in a way—by presenting those to you on the basis that if they do not properly belong in that we might drop them out. We are not sure there are a lot but there are some and they are of concern.

I might also suggest a goodly number of the motions of the Byrd rule problems come from the welfare bill—not all, but many.

I might reflect for a moment how that happened. The Senate cleared a welfare bill with how many votes? Mr. President, 87–12. That bill was put in the reconciliation bill and it has its own track going. It was never perfected by the U.S. Senate or by any committees in a way that made it absent the Byrd rule problems.

In other words, we handled that on the floor. It turns out when you put it in reconciliation, obviously it has a lot of points of order.

We are concerned because most of the 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. DOLE. I indicated before, I know we will do these things, but if we do them as quickly as we can, then it will make things easier for all of us and make it possible to leave here tonight by 10:30 or 11 o'clock and not be here on Monday.

Mr. EXON. May I have 30 seconds? I simply say that I will be glad to listen and look at anything that is presented to us. I simply point out to my colleagues that the points raised were the most serious, in my view, of the violations of the Byrd rule. We believe they are all valid points of order and the Parliamentarian has so told us.

We published a comprehensive list of all budget rule violations in yesterday's RECORD. This is no surprise deal.

I certainly say that I will look forward to hearing from your side and, as usual, take a careful look at your proposition.

LAUTENBERG MOTION TO COMMIT

Mr. EXON. The next motion would be by the Senator from New Jersey, Senator LAUTENBERG.

I yield to him the 30 seconds I have as part of my time for his disposition.

Mr. LAUTENBERG. This is to commit the bill to the Finance Committee with instructions to report back on an amendment that would expand the deductibility of expenses that occurred in connection with business that one conducts in one's moment.

In 1993, the Supreme Court decision drastically reduced the deductibility of items in connection with a home/office kind of business.

If one was a plumber or electrician or an accountant and operated out of home, they would lose their deductibility because their clients would not have visited the home.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, inserting provisions to expand the deductibility of expenses incurred in connection with the business use of one's home, and to offset the resulting costs by adjusting the corporate capital gains tax rate.

MOTION TO EXPAND THE HOME OFFICE DEDUCTION

Mr. LAUTENBERG. Mr. President, I rise today to offer a motion that would benefit home-based small business owners. My motion would send the Senate reconciliation bill back to the Committee on Finance and would instruct the committee to insert language expanding the home office deduction. For a relatively small sum, to be offset by a modification to the corporate capital gains tax rate. Congress can remedy a 2-year-old court holding that interpreted a section of our Tax Code too narrowly.

Under current law, a taxpayer may only obtain a home office deduction in one of the following ways: First, If the office is the principal place of business for a trade or business; second, if the office is a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or third, if the office is physically separate from the home. A 1993 Supreme Court holding interpreted the principal place of business too narrowly, thus effectively denying this deduction to taxpayers unless their offices were physically separate from their homes or unless their clients physically visited their offices.

This court decision, and the IRS's subsequent application of it, have prevented taxpayers from obtaining a deduction Congress intended them to have. The Government should not be providing a disincentive to those persons who have made the decision to work at home, a decision that was most likely based upon economic constraints and family considerations.

Women-owned businesses are being disproportionately hurt by this narrow interpretation of section 280A of our Tax Code. Women are more apt to work out of their homes than men and they should not be punished for choosing to work near their families. By voting for my motion, my colleagues will be sending a profamily message to their constituents.

Expanding this deduction would also help workers who have been displaced by corporate downsizing to remain in the work force and avoid welfare by defraying some of their startup costs should they decide to go into business for themselves. My motion would also benefit the elderly and persons with physical disabilities who want to work but for whom commuting to traditional offices is simply too difficult.

Mr. President, expanding the home office deduction was endorsed by the recently held White House Conference on Small Business, which had participants from every State. The Committee on Finance held a hearing on this matter in June and it has strong support in the small business community. Legislation was introduced earlier this year that would accomplish the same goal I am seeking today. I would ask unanimous consent that a letter written to the Majority Leader DOLE by dozens of small business groups supporting this goal be inserted into the RECORD. I strongly urge my colleagues on both sides of the aisle to support my motion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 11, 1995.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The undersigned associations strongly urge you to cosponsor S. 327, the Home Office Deduction Act. The original sponsors of the bill are Senators ORRIN G. HATCH, MAX BAUCUS, CHARLES E. GRASSLEY, JAMES J. EXON, ROBERT J. KERREY, JOSEPH I. LIEBERMAN, BENNETT J. JOHNSON, and JOHN H. CHAFEE.

S. 327 will promote economic growth and help create prosperity for the nation's work force. It is designed to ameliorate the economic hardships caused by the 1993 U.S. Supreme Court decision in the *Commissioner v. Soliman* case.

Tens of thousands of persons stand to lose the home office deduction as a result of the *Soliman* decision; particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent sales persons, plumbers, electricians, remodeling contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

S. 327 is an excellent response to the current spate of corporate downsizings which have resulted in the layoffs of tens of thousands of workers. They, like many other people, are now attempting to live the American dream by starting businesses out of their homes.

The bill shows a clear appreciation for the convenience offered American families by home-based businesses. A home-based business provides a spouse (including a single parent) the emotional benefits of taking care of his or her children at home while earning money at the same time. S. 327 also takes into account modern telecommunications equipment (such as personal computers, facsimile machines, and modems) which can make home-based business technologically competitive with any commercially leased space.

Thank you for considering cosponsoring S. 327. If you would like to cosponsor the bill, please call West Coulam (4-0134) of Senator Hatch's office.

Sincerely,

Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Home-Based Businesses.
American Society of Media Photographers.
American Society of Travel Agents.
American Veterinary Medical Association.
Associated Builders and Contractors, Inc.
Bureau of Wholesale Sales Representatives.
Communicating for Agriculture.
Communicating for Health Consumers.
Council of Fleet Specialists.
Direct Selling Association.
Family Research Council.
Home Office & Business Opportunities Association of California
Illinois Women's Economic Development Summit.
National Association for the Cottage Industry.
National Association for the Self-Employed.
National Association of Home Builders.
National Association of Private Enterprise.
National Association of the Remodeling Industry.
National Association of Women Business Owners.
National Electrical Manufacturers Representative Association.
National Federation of Independent Business.
National Small Business United.
National Society of Public Accountants.
Promotional Products Association International.
Retail Bakers of America.
Small Business Legislative Council.

SMC—"The Voice of Small Business."

Mr. DOMENICI. Mr. President, this would increase corporate tax rates from 28 to 32 percent in order to expand the deduction of home business expenses, and I believe it adds new language to the bill by way of the home-business expenses.

Therefore, it is subject to a point of order on germaneness. I raise that point under the Budget Act.

Mr. EXON. Pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 39, nays 60, as follows:

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—39

Akaka	Ford	Levin
Baucus	Glenn	Lieberman
Boxer	Graham	Mikulski
Breaux	Harkin	Murray
Bumpers	Heflin	Nunn
Byrd	Hollings	Pell
Conrad	Inouye	Pryor
Daschle	Kennedy	Reid
Dodd	Kerrey	Robb
Dorgan	Kerry	Rockefeller
Exon	Kohl	Sarbanes
Feingold	Lautenberg	Simon
Feinstein	Leahy	Wellstone

NAYS—60

Abraham	Domenici	Mack
Ashcroft	Faircloth	McCain
Bennett	Frist	McConnell
Biden	Gorton	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Bradley	Grassley	Nickles
Brown	Gregg	Pressler
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Helms	Shelby
Chafee	Hutchison	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Cohen	Johnston	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 39, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the motion falls.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3035

(Purpose: To delay for 2 years the repeal of the 50-percent interest exclusion for employee stock ownership plans)

Mr. EXON. The next amendment I have is an ESOP amendment that will be offered by the Senator from Illinois [Mr. SIMON]. I yield him the 30 seconds of our time for however he wishes to use it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer this amendment in behalf of Senator STEVENS, Senator BREAUX, and myself. The employee stock option plan——

The PRESIDING OFFICER. The Senator will suspend.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. STEVENS, and Mr. BREAUX, proposes an amendment numbered 3035.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 seconds.

Mr. SIMON. Mr. President, I offer this in behalf of Senator STEVENS, Senator BREAUX, and myself. Our former colleague, Russell Long, helped to develop the employee stock option plan. Even the Chamber of Commerce says when it is enacted in companies, it increases productivity 3 to 17 percent.

What this bill does, without my amendment, it starts to strangle the ESOP's. CBO says it will cost $27 million. Let me just add——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON. Not a single hearing has been had on this. This would just delay the date 2 years.

Mr. BINGAMAN. Mr. President, I rise today as a cosponsor and strong supporter of Senator SIMON's amendment to strike a provision ending favorable consideration for banks providing loans to employee stock ownership plans.

This provision, known as section 133, was originally put in place by Senator Long, when he was the honorable chairman of the Senate Finance Committee. It allows banks making loans for the establishment of employee stock ownership plans [ESOP's] to deduct half of the interest received from that loan from income. In practice, this provision has lowered the costs of establishing an ESOP, and thus expanded employee ownership. It is estimated that about 50 ESOP's are established in this manner each year.

Mr. President, I support the current provision because I support employee ownership. In a time when corporations are enjoying soaring profits and wages remain stagnant, employee ownership gives workers a means to share in the profits of their labor. In cases in which employee ownership is significant and in which voting rights are extended to employee owners, as required by section 133, it also can give workers an important voice in corporate decisions.

Beyond helping individual workers, there is significant evidence that employee ownership enhances the competitiveness of corporations. Several studies, including a 1995 study by Douglas Kruse of Rutgers University, have established a positive link between employee ownership and corporate performance. It is no surprise that workers are more productive when they own the fruits of that productivity. In a global economy, shouldn't we be doing everything we can to encourage corporations to be more competitive?

Beyond these substantive policy reasons for striking the anti-ESOP provision in this legislation, I believe that there are budgetary reasons for striking this language. Most notably, it is my understanding that the revenue estimates attached to this provision are grossly overstated. No hearings have been held on the provision or its revenue effects, and the ESOP Association has done an analysis showing the anticipated revenue is extremely unrealistic. I ask that a copy of that analysis be included at the conclusion of my remarks.

In summary, Mr. President, I believe that the provision in the legislation before disallowing the preferential tax treatment of ESOP loans is bad policy, and I urge support of Senator SIMON's amendment to strike it.

There being no objection, this material was ordered to be printed in the RECORD, as follows:

THE ESOP ASSOCIATION,
Washington, DC, October 17, 1995.

To: Tax Staff of the U.S. Senate.
From: The ESOP Association.
Re: Incredible Revenue Estimate on Repeal of ESOP Provision.

The revenue estimate for the proposed repeal of the ESOP tax provision known as the ESOP lenders interest exclusion (Code Section 133) is unbelievable for each year estimated.

Fact, the average ESOP leveraged transaction, where borrowed money is used to acquire stock for employee owners, is at most, $5 million per transaction.

Fact, at the highest, only 50 transactions a year since January 1, 1990, have used the tax incentive that is proposed to be repealed.

Fact, 50 times 5 equals 250. If the interest rate on the $250 million in ESOP loans is 10%, the interest paid on these loans is $25 million per year. The lender may exclude $12.5 million of this interest from its income tax. The revenue loss to the Treasury is $3.5 million per year.

The revenue estimates that in the year FY '99, for example, that the revenue loss is $149 million is ridiculous. To reach this level of revenue loss, the amount of 50% plus ESOP transactions would be $8.6 billion per year! Never, ever, has the value of ESOP transactions where employees acquired 50% or more, and use borrowed money, come close to this level.

The ESOP community in its wildest dreams would wish that there were that

many 50% plus ESOP transactions a year to justify such an estimate. Sadly for America there is not.

The ESOP Association knows how many transactions a year there are. Obviously those wishing to damage employee ownership are not informed as to the facts.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, this amendment would lose $500 million over 7 years. It would chip away at the deficit reduction package of corporate welfare reforms and loophole closures. This is a big, big ESOP loophole.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Whatever time we have we release.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—56

Abraham	Faircloth	Mack
Ashcroft	Feingold	McCain
Bennett	Frist	McConnell
Bond	Gorton	Moynihan
Bradley	Gramm	Murkowski
Brown	Grams	Nickles
Bryan	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Cochran	Helms	Simpson
Cohen	Hutchison	Smith
Coverdell	Inhofe	Snowe
Craig	Jeffords	Specter
D'Amato	Johnston	Thomas
DeWine	Kempthorne	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Dorgan	Lugar	

NAYS—42

Akaka	Ford	Lieberman
Baucus	Glenn	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Harkin	Murray
Boxer	Heflin	Nunn
Breaux	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Kennedy	Reid
Coats	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Simon
Exon	Leahy	Stevens
Feinstein	Levin	Wellstone

NOT VOTING—1

Kassebaum

So the motion to lay on the table the amendment (No. 3035) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we have now had 34 amendments considered today. And I have an amendment. I am going to ask I be permitted to yield to the Senator from West Virginia, and that he may proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized for 10 minutes.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

May we have order in the Senate?

The PRESIDING OFFICER. The Senate will please come to order. Senators will take their conversations to the Cloakroom.

The Senator from West Virginia.

Mr. BYRD. Mr. President, 31 years ago the Senate, on June 16, 1964, broke the record for the number of rollcall votes cast in one calendar day by casting 34 rollcall votes. I should say that the record number of votes in any one legislative day was made in 1977, when the Senate debated the Natural Gas Deregulation Act. There were 38 rollcall votes cast on that legislative day, 26 before midnight, and 12 after midnight, so that there were parts of 2 calendar days included in one legislative day. That was 38 total votes on one legislative day.

But for the record number of votes cast on any single calendar day, that occurred, as I say, on June 16, 1964. We are about to cast the 35th rollcall vote to occur in one calendar day—a new record.

Let me reminisce, if I just might, for a moment about that occasion.

June 16th was 3 days before the final action occurred on the Civil Rights Act of 1964. I filibustered against that bill. I spoke for 14 hours and 13 minutes. I was the only non-Southern Democrat to vote against the bill. Alan Bible of Nevada and Carl Hayden and I were the only three Non-Southern Democrats to vote against cloture on June 10.

Now, so that I might not impose on the time of the Senate, let me just read from Volume II of my history of the Senate.

"When the bill arrived from the House on February 26, 1964, it went directly to the Senate calendar." On March 9, Majority Leader Mike Mansfield moved to take up the bill, "and the motion was debated until March 26"—therefore, the debate on the motion to proceed required 17 days—"when the Senate voted, 67-17, for the motion [to proceed] . . . From March 26 [then, when the bill was first brought before the Senate, following the debate on the motion to proceed,] until cloture was invoked on June 10, the bill was before the Senate for a total of 77 days—including Saturdays, Sundays, and holidays—and was actually debated for 57 days, 6 of which were Saturdays. Still, the bill was not passed until 9 days after cloture was voted. Hence, 103 days had passed between March 9, the day that the motion was first made to proceed to take up the bill, "and final passage on June 19."

That was a very historic occasion. The vote on cloture occurred on June 10, which was the 100th anniversary of Abraham Lincoln's nomination for a second presidential term. The 34 rollcall votes occurred on June 16, and the bill passed on June 19 by a vote of 73 to 27.

Mr. President, this is another historic occasion today. We are about to cast 35 rollcall votes, which will, of course, set a new record, the first such new record in 31 years.

I wish we would pause just a moment and think about the contrast between the bill that was before the Senate then and the bill that is before the Senate now—not the subject matter at this point, but the procedural aspects.

On that occasion, we had one bill which was before the Senate. There had been hearings on that bill. There had been 17 days of debate on a motion to proceed to take the bill up. There had been 57 days of actual debate, including Saturdays. There had been scores of amendments offered thereon and cloture was finally invoked. And then more amendments were called up and additional votes occurred.

Think of the time that it took the Senate to dispose of that bill: 103 days. It was a historic bill. I voted against it, to my regret today. I have said that many times. But here we have a bill that has been before the Senate now 2 days—3 days; only 3 days—and we are limited to 20 hours on this bill—20 hours.

On that bill in 1964, we had 103 days; on this bill the limit is 20 hours and only 2 hours on an amendment, and the motion to proceed to this bill was nondebatable. But we are down to the point now where we have only 30 seconds to the side for debate on an amendment—30 seconds for debate. I am not criticizing either party or anybody in either party, in saying this. I am just concerned and discouraged by what we have seen taking place here in the Senate on this bill.

It is a historic bill also, but we have gone from 103 days on a massive bill—one bill—to 20 hours on what consists of a number of bills, not just one bill. No hearings. No hearings on this bill. There were hearings by committees on parts of it, but no single committee had hearings on the whole bill. 1,949 pages.

I am concerned with what we are doing to the Senate, what we are doing to the legislative process. We are inhibited from calling up amendments. We have had a very insufficient time for debate on this massive, comprehensive bill, a bill that may be even more far-reaching in some respects than was the civil rights bill of 1964.

I hope that we will, in the coming days and weeks and next year, consider revising the reconciliation process, that part of the legislative process

dealing with the Budget Act. I was here when we adopted the Budget Act of 1974. I never comprehended, never could I have imagined that the reconciliation process would have been used as it is being used here, a reconciliation process in which we bring several bills into one massive bill, on which the time for debate is severely restricted. Cloture is nothing as compared with the time limitation on the reconciliation bill. Cloture is but a speck on the distant horizon as compared with this bear trap.

It is most unfortunate. I do not think it is in the best interests of the institution. I do not think it is in the best interests of the legislative process. I do not think it is in the best interests of the American people, because we Senators do not know—to a very considerable degree—what we are voting for. There is not a Senator in this body—not one—who knows everything that is in this bill. Not one. And so that is the situation we are in. It troubles me.

I thank the distinguished majority leader for asking that I be recognized for 10 minutes. It is a special honor for me to be able to offer the amendment on which the record will be broken. I regret that we had to break the record in a situation such as I have described, but it is an honor to me. This is a historic occasion. I lived on that occasion—Senator THURMOND, Senator PELL, Senator KENNEDY, Senator INOUYE, and I are the only Senators who were here when the 1964 record vote was cast.

I say to the leader, may I proceed with my amendment?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. I hope Senators will now provide the second historic occasion that will take place today. [Laughter.]

AMENDMENT NO. 2974

(Purpose: To strike the provisions in title XII reducing revenues)

Mr. BYRD. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. FEINGOLD, Mr. HOLLINGS, Mr. SIMON, Mr. DORGAN, Mr. ROBB, and Mr. BUMPERS, proposes an amendment numbered 2974.

On page 1469, strike beginning with line 1 and all that follows through page 1650, line 9.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, How can we possibly tell the American people that the budget will be balanced in 2002, even if we carry out the provisions of this reconciliation measure? CBO's deficit estimates have been off the mark by an average of $45 billion per year since 1980.

Yet, we are not only being asked to accept CBO's projections for seven years (as opposed to the usual five-year projections)—we are being asked to then take a so-called "fiscal dividend" that will occur if CBO's projections of a balanced budget turn out to be correct seven years down the road and to use that as the basis for enacting a huge $245 billion tax cut for the wealthy right now. Not later, after the budget is actually balanced, but now. Let us give Americans a tax cut now and promise them a balanced budget seven years from now. Why? Because it makes good politics. It fooled the American people in 1981. Why not do it to them again in 1995? If we are serious about balancing the budget, let us use the spending cuts that will occur this year and in the coming 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 moneys to the deficit.

Mr. President, the amendment speaks for itself. It eliminates the tax cut in the bill and applies the savings that are projected—and we know how the projections have been in error so many times, and that is not to be critical of CBO—but it applies the savings to the deficit.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think everybody understands this amendment. It would strike all the tax cuts that were provided for children, those where we want to correct the marriage penalty and the like.

Let me suggest rather than talk about that, I say to Senator BYRD, your speech was eloquent, and I thank you for it. But I must suggest that you were part of putting this together, and we thank you for it, because if you had not helped us put this kind of process together, we could never change the country.

I guarantee you that if we did not have a reconciliation process, what we wanted to change would take 30 years. Any piece of this amendment could be subject to the exact same 69, 79, 89 days as that legislation, which the distinguished former majority leader brought to our attention. That is just too long to change things and turn things around.

So once a year, we get an opportunity to proceed to change the country and vote on very large, significant, substantial changes under the privilege of a reconciliation bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent that I be permitted to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, it is true this is not the cleanest of processes, and I submit a clear reading of the Budget Act, which, again, the Senator from West Virginia had a very big hand in drawing, that clearly it was intended that when you put a budget of the United States together, that the U.S. Congress would not avail itself of delaying tactics to implement it. As a matter of fact, the implementing of it to make it reconcile with the budget is from whence the word "reconciliation" comes.

So maybe it is being used for too many things, and maybe it is too difficult, and perhaps we ought to fix that process a bit. But I guarantee you, if you do not find something to take its place and abolish it, you will not change America in important matters for year after year after year.

I like the rules. But I think once a year you ought to comply with the budget of the United States and change the laws to change the country, to comply with the fiscal policy. That is why we are here. It is difficult. I am glad that I am chairman when we broke the record—I am not sure of that, although I am very pleased with the record. We won almost every vote and, for that, I thank the Republicans. I think they knew what they were voting about and for. Essentially, the truth of the matter is that we have no other way to get it done, as imperfect as it is. I yield the floor.

Mr. BYRD. Mr. President. I ask for the yeas and nays.

Mr. DOMENICI. I move to table the Byrd amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—53

Abraham	Faircloth	Lugar
Ashcroft	Frist	Mack
Baucus	Gorton	McCain
Bennett	Gramm	McConnell
Biden	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Roth
Campbell	Hatfield	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lieberman	Warner
Domenici	Lott	

NAYS—46

Akaka	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	
Feinstein	Mikulski	

So the motion to lay on the table the amendment (No. 2974) was agreed to.

Mr. SIMPSON. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 15 seconds out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. A little earlier I stated that Senator THURMOND and I were the only two Senators who voted on June 16, 1964, and I inadvertently overlooked Mr. PELL who was here, Mr. KENNEDY, and Mr. INOUYE. Those three Senators also were here on that record date.

I thank the Chair.

Mr. EXON. Mr. President, when the vote was announced on the last amendment, was that reconsidered and tabled?

The PRESIDING OFFICER (Mr. STEVENS). It was.

Mr. EXON. As near as I can tell, and I stand to be corrected if I am in error, we have three amendments and possibly one that I do not think will be offered.

The three amendments upcoming are the Wellstone amendment, then the Exon amendment with regard to the violations of the Byrd rules, and then the Finance package. So I think we only have three with the possibility of one more.

At this time, then, to move along, I suggest that we recognize the Senator from Minnesota, who has an amendment to offer. I yield him the 30 seconds off of our bill.

AMENDMENT NO. 3036

(Purpose: To strike the deep water regulatory relief provision for a number of reasons, including: (1) although the provision is estimated to save $130 million over seven years, the Congressional Budget Office estimates that the provision will cost the Treasury $550 million in lost receipts over the next 25 years, leading to a net loss of $420 million: (2) the provision provides yet another unneeded subsidy for the oil and gas industry, which was described by the Wall Street Journal on October 24, 1995 as experiencing a "Gush of Profits", and by Business Week in the October 30, 1995 issue as benefiting from new technologies that cut the cost of deep-water drilling; and (3) a short-term savings of $130 million over seven years does not justify the ultimate giveaway of $420 million over 25 years)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], proposes an amendment numbered 3036.

Mr. WELLSTONE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike sections 5930, 5931, and 5932.

Mr. WELLSTONE. Mr. President, this amendment knocks out what is euphemistically called the deep water royalty relief. It in fact is probably the most brazen subsidy that goes to oil companies that are doing very well. So well, Mr. President, that in the House of Representatives, 261 Representatives voted against this—100 Republicans.

That is why it got put in reconciliation. That is why somehow it wound up in this reconciliation bill. It ought to be knocked out.

This is not public interest. This is special interest. It is brazen. It is really a scandalous subsidy when we are asking all sorts of citizens to tighten their belt. I hope we will vote to knock this out.

Mr. DOMENICI. I yield our time to Senator JOHNSTON of Louisiana.

Mr. JOHNSTON. Mr. President, according to the Mineral Management Service, this provision which Senator WELLSTONE would seek to knock from this bill would produce 320 million barrels of oil in the central gulf which would otherwise not be produced.

Need I remind my colleagues that the Mineral Management Service is part of the Department of the Interior. Bruce Babbitt, a Secretary who has never been known as being in the pocket of the oil companies—this is backed by Secretary Babbitt. It is backed by Secretary O'Leary.

I ask unanimous consent that her letter backing this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, October 19, 1995.

Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: The Administration reiterates its support for the title providing deepwater royalty relief to the central and western Gulf of Mexico.

In the energy policy plan, "Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy" in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, "the Nation must make the most efficient us of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the 21st century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources." (page 33) In furtherance of this objective, "The Administration's policy is to improve the economics of domestic oil production by reducing costs, in order to lessen the impact on this industry of low and volatile oil prices." (page 35) One of the ways indicated to lower these costs is, "providing appropriate tax and other fiscal incentives to support our domestic energy resource industries." (page 34) Finally, the "Strategy" specifically targets the opportunities in the Gulf of Mexico.

"One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly in deeper water. Royalty relief can be a key to timely access to this important resource. The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help to unlock the estimated 15 billion barrels of oil-equivalent in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industries. (emphasis in original, page 36)"

The royalty relief provision in S. 395 as adopted by the conference committee is a targeted, deepwater royalty relief provision that the Administration supports. For existing leases, it targets relief for only those leases that would not be economic to develop without the relief. For new leases, the provision is targeted for a specific time period for only a specific number of barrels of production, and could be offset by increased bonus bids.

The Minerals Management Service has estimated the revenue impacts of new leasing under section 304 of S. 395. For lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deepwater royalty relief provisions would result in increased bonuses of $485 million—$135 million in additional bonuses on tracts that would have been leased without relief; and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account. However, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2018. But again taking into account the time value of money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a net present value basis, the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period, such as that proposed in S. 395, would help enable marginally viable OCS projects to be developed, thus providing additional energy, jobs, and other important benefits to the nation.

In contrast, in the absence of thorough reform of the 1872 Mining Law, hard rock mining projects on Federal lands can be initiated without paying a substantial bonus and are never required to pay a royalty on the resources developed. The end result is that the public is denied its fair share of the benefits from the resources developed.

The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security, and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.

The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

HAZEL R. O'LEARY.

REVENUE IMPACT OF DEEP WATER ROYALTY RELIEF

MMS estimates—(In millions of dollars)

	Nominal dollars		Present value		Interest saved by retiring $200 mil. of debt by 2000
	Increased bonus revenues	Foregone royalties	Bonus revenues	Foregone royalties	
1996	97		97		
1997	97		90		
1998	97		83		
1999	97		77		
2000	97		71		
2001		(2.4)		(1.6)	16
2002		(7.1)		(4.5)	17
2003		(16.4)		(9.6)	19
2004		(29.6)		(16.0)	20
2005		(44.4)		(22.2)	22
2006		(57.4)		(26.6)	24
2007		(65.7)		(28.2)	25
2008		(67.2)		(26.7)	27
2009		(62.6)		(23.0)	30
2010		(54.8)		(18.7)	32
2011		(44.1)		(13.9)	35
2012		(34.9)		(10.2)	37
2013		(25.8)		(7.0)	40
2014		(18.5)		(4.6)	44
2015		(11.5)		(2.7)	47
2016		(6.7)		(1.4)	51
2017		(2.9)		(0.6)	55
2018		(1.3)		(0.2)	59
Total	485	(553)	418	(218)	599

Present Value: 8% discount rate.

The present value of a stream of revenues is the amount of current dollars that would have to be invested in a risk-free asset in order to end up with the same stream of dollars in future years. If the government were to invest $218 million in T-bonds, it could draw down the investment each year between 2001 and 2018 to offset the foregone royalties in that year. The government would still have $200 million left for deficit reduction in the five-year budget. (This is comparable to an individual planning for reduced income in retirement by investing in an annuity to replace the lost income in the future.)

To analyze fully the impact on the Treasury over 25 years, the impact of reducing the debt by $200 million has to be included. By the year 2018, the taxpayers would be ahead by an additional $599 million, the amount of interest that would not have to be paid to finance $200 million of debt from 2000 to 2018.

If you have any question, contact Shirley Neff.

Mr. JOHNSTON. It raised $200 million for the Treasury, according to the Mineral Management Service, which that report shows. It is supported by the administration.

It is necessary to meet our target, and it came out of the Energy Committee by 17 to 2.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation. I raise a point of order against it pursuant to the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the section of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted— yeas 28, nays 71, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—28

Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bryan	Jeffords	Pell
Bumpers	Kennedy	Pryor
Byrd	Kerry	Sarbanes
Cohen	Kohl	Simon
Dodd	Lautenberg	Snowe
Feingold	Leahy	Wellstone
Glenn	Levin	
Graham	Lieberman	

NAYS—71

Abraham	Exon	Mack
Akaka	Faircloth	McCain
Ashcroft	Feinstein	McConnell
Baucus	Ford	Mikulski
Bennett	Frist	Moseley-Braun
Biden	Gorton	Murkowski
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Breaux	Grassley	Pressler
Brown	Gregg	Reid
Burns	Hatch	Robb
Campbell	Hatfield	Rockefeller
Chafee	Heflin	Roth
Coats	Helms	Santorum
Cochran	Hutchison	Shelby
Conrad	Inhofe	Simpson
Coverdell	Inouye	Smith
Craig	Johnston	Specter
D'Amato	Kassebaum	Stevens
Daschle	Kempthorne	Thomas
DeWine	Kerrey	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Dorgan	Lugar	

The PRESIDING OFFICER. On this vote the yeas are 28, the nays are 71. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken and the amendment fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are still examining the different items of the package, the so-called Byrd-Exon package on the Byrd rule.

I wonder if we might proceed on the Finance Committee amendment. Senator ROTH I think is prepared to proceed on that amendment. We would be prepared to enter into some lengthier time agreement than the 10 minutes we were allotted under yesterday's unanimous-consent agreement. We would like to keep it as tight as possible, but we understand the Senator from Florida in particular wanted some additional time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I have consulted with a number of our colleagues, and I think that a half-hour on either side might accommodate the needs of Senators interested in participating in debate on the Roth amendment if that would accord with the majority leader.

Mr. DOLE. Half-hour on each side.

Mr. DASCHLE. Half-hour on each side.

Mr. DOLE. I ask unanimous consent there be an hour equally divided.

The PRESIDING OFFICER. Is there objection to an hour equally divided?

Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3037

Mr. DOMENICI. Mr. President, I had been trying to clear a correcting amendment to the D'Amato amendment that had heretofore been adopted. I understand it has been cleared on both sides.

Mr. EXON. It has been cleared on both sides.

Mr. DOMENICI. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 3037.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 187, line 3, and on page 187, line 22, strike "5" and insert "10."

Mr. DOMENICI. Mr. President, I yield back any time I have on the amendment.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 3037) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, buried in this gigantic reconciliation bill is a provision, Section 12874, that would amend a carefully wrought bipartisan measure enacted in 1992 to protect the health benefits promised to retired coal miners and their dependents. This provision would jeopardize these health benefits and put the 92,000 retired miners and their dependents at risk. I understand this provision was added at the last minute and is a modification of a bill, S. 878, which has not been the subject of hearings by the Finance Committee. Hiding this provision, that has not received careful review or consideration, in a 1,949-page bill is an outrage.

Section 12874 represents a major policy change that would overturn existing statute and case law in order to provide a two-year tax break to a select group of coal companies at the expense of other coal companies. In so

doing, this provision would not only change a major provision of the Coal Act of 1992, it would also overturn dozens of district and Federal court decisions.

Under the 1992 Coal Act and case law, companies are required to pay health insurance premiums for their former workers, with whom they contractually committed to pay lifetime health benefits. Section 12874 would relieve certain coal companies from this commitment by allowing them to forego these premiums for 2 years.

According to the Congressional Budget Office (CBO), over the 7-year period, 1996-2002, this provision would produce a net increase of only $8 million.

In light of the fact that Section 12874 represents a major policy change, which would overturn existing statutory and case law, while having a minor budgetary impact of only $8 million over 7 years, it is clearly a violation of section 313(b)(1)(D) of the Congressional Budget Act of 1974, which reads as follows:

A provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision;.

Therefore, it is my view that Section 12874 should be stricken from the reconciliation bill as being in violation of the Byrd Rule.

In addition to the blatant violation of the Byrd rule, Mr. President, this provision is just bad policy.

The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation put miners' health benefits in jeopardy. The Coal Act averted this crisis by requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

Miners' health benefits have a unique history in that the federal government has played a role since the coal strike of 1946. Over the years, miners gave up increases in wages and pensions and in return were promised lifetime health benefits by the coal companies. Health benefits are important to coal miners. The coal miner lives dangerously, working in cramped, hazardous conditions. The brutal nature of mine work and the risks to miners' health that go hand in hand with this labor make good health benefits extremely important to miners.

The provision included in the Reconciliation legislation would, for two years, provide relief to reachback companies, those companies that were not signatories to the 1988 National Bituminous Coal Wage Agreement, by reducing the premiums they are required to pay to the Combined Fund if it is calculated that the Fund has a surplus. The calculation of a surplus would be done on the cash method of accounting, not the accrual method, and the surplus would be reduced by 10 percent of benefits and administrative costs. Requiring the calculation of a surplus using the cash method of accounting is unwise, could lead to a misleading statement of surplus, and is not the standard practice with regard to health plans. Further, the provision provides that if a shortfall in the Fund occurs, all companies' premiums would be increased, even though only a specific group of companies would get relief.

The financial status of the Combined Fund is precarious. Guy King, the former chief actuary for the Health Care Financing Administration, in an analysis of the Combined Fund, suggests that all of the net assets in the Fund will be necessary to pay benefits for the next ten years. The annual growth in the premium rates will be insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for the Fund to remain solvent in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the financial status of the Fund. Given the uncertainty surrounding the Combined Fund, I must adamantly oppose this provision to relieve certain companies of their responsibility to their former employees.

Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the goal of policy change. In addition, this provision does not adequately safeguard the financial status of the Combined Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. I hope that the Senate will vote to remove this ill-advised provision from the Reconciliation legislation.

The PRESIDING OFFICER. Who yields time?

There will be 30 minutes on a side. The Chair asks the Senate to be in order.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does the Senator desire on the amendment? We have 30 minutes on our side.

Mr. ROTH. Five minutes.

Mr. DOMENICI. I yield 5 minutes to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Will the Senate please be in order.

AMENDMENT NO. 3038

(Purpose: To make various changes in the spending control provisions in the matter under the jurisdiction of the Committee on Finance)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

It is very difficult for the Chair to hear even. If the staff does not stay quiet, we will order that the staff be removed.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Parliamentary inquiry. Are we about to debate the Finance Committee amendment?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. And how much time is there on that?

The PRESIDING OFFICER. There is 1 hour equally divided.

Mr. BUMPERS. I wonder if we could get the people who are speaking on it to tell us whether they are going use the entire hour or not.

The PRESIDING OFFICER. The Chair does not think that is a parliamentary inquiry. I do not think that is within the province of the Chair, to demand in advance whether time will be used.

Mr. BUMPERS. Would I be within my rights to ask the distinguished chairman of the Finance Committee how much time he intends to take?

The PRESIDING OFFICER. Will the Senator yield for a question?

Will the Senator from Nebraska yield for a question? The Senator from Arkansas has a question.

Mr. BUMPERS. The question is, how much time does the Senator from Nebraska intend to use, if he knows?

Mr. EXON. Is the Senator asking about the half-hour time?

Mr. BUMPERS. Yes.

Mr. EXON. I will try to allocate the time as best I can.

I just have had a brief meeting with the Senator from Florida, who said he would wish to begin debate. He asked for more time. I said I will have to be a tough traffic cop. We have a half an hour. I have agreed to give 10 minutes to the Senator from Florida. I will allot the rest of the time as we can. Anybody who wishes to speak on this, I wish they would come over and visit with me about it, and I will try to accommodate as many Senators as possible.

Mr. BUMPERS. I am not asking for time. I am curious whether or not we are going to be here for another hour before we vote.

Mr. EXON. There will be at least another hour before we vote.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 3038.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROTH. Mr. President, this amendment includes modifications in Medicare and Medicaid. The first change in the Medicare provisions establishes a fully prospective payment system for skilled nursing facilities within 2 years.

Now, until this new skilled nursing home prospective system is implemented, the amendment changes how Medicare will pay nursing homes for nonroutine services. The change establishes payments based on each nursing home's cost in 1994 with an inflation adjustment.

The second change in the Medicare provisions is a slower phase-in for changes in Medicare's indirect medical education payments to teaching hospitals.

Mr. President, this amendment also makes several modifications to the Medicaid provisions in the bill.

The PRESIDING OFFICER. Would the Senator suspend?

Would the Senators take their conversations off the floor, please?

Mr. ROTH. The——

The PRESIDING OFFICER. Will the Senator suspend? The Chair will start naming names. Please take the conversations off the floor.

Mr. THURMOND. That is right.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. The first modification would modify the Federal quality standards for nursing homes under Medicaid. We have worked with Senator COHEN on this modification, and he is supportive of these changes. The modification would reduce the costly and duplicate requirement that States perform preadmission screening and annual resident review. In addition, a modification to the nurse aide training requirements would make it easier to train nurse aides in rural areas.

The amendment would allow States with equal or stricter nursing home standards to seek a waiver from the Secretary of HHS to use the State standards in lieu of the Federal standards. However, the Secretary of HHS would continue to enforce State compliance with the Federal standards. States not in compliance with the Federal standards would be assessed a penalty of up to 2 percent of their Federal Medicaid funds.

Second, the amendment creates a Medicare-Medicaid integration demonstration project to permit Medicare and Medicaid funding to be combined to provide comprehensive services through integrated systems of care to elderly and disabled individuals who are eligible for both programs.

Third, the amendment creates a separate set-aside for low-income Medicare beneficiaries. This set-aside would be in addition to the set-asides already in the bill for pregnant women and children, the disabled and the elderly. Under this provision States would be required to spend a minimum amount on Medicare premiums for low-income Medicare beneficiaries. The amount States must spend must be at least 90 percent of the average percentage spent on Medicare premiums under Medicaid over fiscal years 1993 through 1995.

Fourth, the amendment requires States to apply the same solvency standards for health plans under Medicaid as the States set for health plans in the private sector.

And, fifth, the amendment modifies the distribution formula under the Medicaid program.

Let me start by saying we have worked very hard to improve the Medicaid formula——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. DOMENICI. I yield 2 additional minutes.

Mr. ROTH. To improve the Medicaid formula which was adopted by the Finance Committee. Under the modification, each State's base would be the higher of, first, fiscal year 1995 spending, minus all payments to disproportionate share hospitals; second, fiscal year 1994 spending, including all disproportionate share hospital payments, plus 3.4 percent; or, third, 95 percent of fiscal year 1993 spending minus all disproportionate share hospital payments.

Each State's funding would increase by 9 percent for fiscal year 1996. And beginning in fiscal year 1997, each State's base would be increased by a growth rate determined by a formula subject to floors and ceilings. The ceilings have been modified by this amendment. We have tried to give more funds to the high-growth States by raising the growth ceilings in future years. States would be able to carry over a credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

Finally, the amendment strikes section 2116 of the bill limiting causes of action under Federal law.

Finally, the provisions in this amendment are paid for by adopting the 2.6 percent cost-of-living adjustment recently——

Thirty seconds?

Mr. DOMENICI. Fine.

Mr. ROTH. Recently announced by the administration for 1996 for programs under the Finance Committee's jurisdiction that are updated by the CPI-W. The CBO baseline assumes the CPI-W would be 3.1 percent.

Mr. 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?

Mr. DOMENICI. Indeed. I yield 1 minute to the Senator from Virginia.

Mr. WARNER. I rise in support of this landmark Medicare reform provision, S. 1357, the Balanced Budget Reconciliation Act of 1995. For the first time in the 30-year history of the Medicare program, Congress is preparing to give the Nation's 38 million elderly and disabled Medicare beneficiaries the opportunity to play a greater role in the design of their health benefits. That opportunity is the Medicare Choice program.

Largely because of its status as a government program, Medicare has fallen behind the times. When it was established in 1965, Medicare was based on the prevailing private sector indemnity health insurance plan—what we have come to know as fee-for-service.

For the first 15 years or so, there was little change in the utilization of American health care, but beginning in the late 1970's, health care price inflation began to skyrocket. Within a decade, American employers were staggering under the weight of rising health care costs. It is important to remember, as well, that by far, health care costs were fully carried by employers.

By the early 1980's we began to see the advent of managed care. Basically, the American business community demanded a more affordable health insurance product, and the insurance industry responded. The best company plans were and remain those which were able to offer a choice of coverage to their employees, not unlike the manner in which the Federal Government does today in the Federal Employee Health Benefit Plan (FEHBP).

Meanwhile, in 1983, the Medicare Program also abandoned traditional cost-based reimbursement and replaced it with what we have come to know as the prospective payment system. The Health Care Financing Administration at the Department of Health and Human Services devised a special payment for every medical procedure in advance and, in general, that was all Medicare would pay. It was and is the biggest and most expensive health care regulatory system in America.

The problem we face today is that Medicare is going broke. The pre-set payments we put into place in 1983 were based on a measure of private health care costs which have continued to rise at a rate beyond any other sector of the economy. Furthermore, Americans are getting older—more beneficiaries with fewer and fewer workers paying the FICA taxes that maintain the Hospitalization Insurance [HI] trust fund.

The combination of these conditions, together with the never dreamed of costs of medical high technology, have worked to undermine the financial strength of Medicare. The major hospitalization fund goes into deficit in just a very few years, and is projected to use up whatever surplus we have accumulated by the year 2002.

So what should be our policy? The first priority is to secure the future of

the program for the beneficiaries. Medicare will have more demands upon it than ever before when the baby boom generation begins retiring around the year 2010. Our plan is to limit or cap the built-in automatic growth of the program which, as I mentioned, has been based on medical price inflation and is one of the principal contributing factors to approaching insolvency. Rather than letting the program grow, as it would, at a rate of 10 to 16 percent per year, we will hold the line at an average of 6.2 percent. I repeat, the program will grow by an average rate of 6.2 percent a year.

This translates into some important numbers that Medicare beneficiaries need to know. In 1995, Federal spending on Medicare will reach $157.7 billion. By the year 2002, the program will have grown by 52 percent to $239.6 billion. This equals for every beneficiary an annual increase in the value of their benefit from $4,800 in 1995 to over $7,000 in 2002. This is growth, Mr. President, not cuts, and we should make every effort to make sure that our constituents fully understand.

Our next priority has been to actually improve Medicare benefits, and much, much work has gone in to determining our course. Should we pursue another top-down big government strategy as we did in 1983, or should we return to the roots of the program and follow the private sector.

As I said before, the best private employers are able to offer their employees a variety of health care choices—choices which best suit the needs of their employees and their families. The Congress is now striving to do the same for Medicare, putting together an array of health insurance options second to none. Older and disabled Americans have earned their Medicare entitlement, and it is our responsibility to maintain and improve it in the best possible manner.

Older people being what they are—and I am over 65 myself so I can say it—many are naturally reluctant to change. We therefore guarantee their No. 1 option to stay in the present system. Furthermore, we guarantee that their share of the principal expense of the program—the part B Premium—will be maintained at 31 percent of program costs. The U.S. Treasury pays for 69 percent of Medicare part B today, and it will as well in the year 2002.

Medicare is not a bargain. Beneficiaries today are asked to pay for 20 percent of doctor visits. The program does not pay for prescription drugs. Millions of beneficiaries have had to purchase medigap insurance at further costs to pay for what Medicare does not.

We will offer a selection of managed care options which can be far more affordable for older Americans living on fixed incomes. These will be options for beneficiaries to study and discuss with their families to see if they would in fact present a better health care choice than the standard plan. Beneficiaries will be given an annual open season to join if they feel that it is right for them. All options will include, for a reasonable copayment, the right to see a favorite physician who might not be in their local plan.

Perhaps the most innovative option will be access to newly available medical savings accounts [MSA's].

In my State of Virginia, which has a reputation for fiscal conservatism, MSA's have prompted a great deal of interest and support by doctors and patients alike.

Medicare would offer a catastrophic health insurance policy which, for example, would cover all costs over $3,000 per year. Remember that today, Medicare hospitalization begins to run out after 60 days in the hospital.

The beneficiary would then be given an annual Medicare allotment, in this scenario, of $1,500 a year which they could use to directly pay for physician visits, prescription drugs or even new eyeglasses. There would be no redtape between the doctor and the patient, no burdensome insurance forms, no lengthy waits for reimbursement. Beneficiaries could even use a simple debit card to pay for care directly from their MSA.

Moneys not utilized by the end of the year could be rolled over to the next, without tax consequences, or withdrawn as taxable income for personal use. The only possible out-of-pocket expense, as compared with the copayments and Medigap insurance used by current beneficiaries, would be that measure of $1,500 between the MSA and the catastrophic plan. If the beneficiary chooses to save his or her unused MSA funds, as many thrifty Americans will no doubt do, the $1,500 amount could easily be accumulated in the MSA in just a few years.

While an MSA will not be suitable for everyone, I believe it can have a real impact on the medical marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers will want their business. With the prospect of no Medicare redtape, I imagine that doctors will jump at the chance to care for MSA beneficiaries.

Mr. President, we are veritably on the brink of a new day in Medicare. We hope to restore long-term solvency to the program by curtailing exorbitant growth, and open the door for beneficiaries to the modern health care marketplace. Millions of Medicare beneficiaries are already educated consumers, and it is my great hope that they will lead the way in demonstrating the value of Medicare choice.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, to start out the debate, we will yield 5 minutes to Senator ROCKEFELLER. Following that, depending on the flow of business, I intend to, at my discretion, allow 5 minutes to Senator PRYOR, 4 minutes to Senator KENNEDY, 3 minutes to Senator WELLSTONE, and then the closing arguments will be made by Senator GRAHAM from Florida.

So, at this time I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from Nebraska and the Presiding Officer.

Mr. President, I find it noteworthy that sometime very recently all of a sudden we get 46 pages of actual legislative language, the manager's amendment. I guess we should be grateful for small deeds. The amendment magically comes up with about $10 billion. We believe there is a very good chance that comes from Social Security, which is most interesting, for more Medicare aid, more Medicaid money, parcels it out to various health care institutions, HMO's, et cetera.

I think there are a number of reasons to reject this bill, which will be my recommendation. One, to protest what is underneath this amendment, a bill that will cut Medicare and Medicaid by unprecedented amounts of money. No last-minute amendments by the managers are going to soften the blow of this combination of Medicaid and Medicare cuts put together. It is a stunning—a stunning—cut.

I think we have to question how all of a sudden this new money appeared. I suspect it came from Social Security. But we will hear more about that. HMO's, nursing homes, got money. Different people were accommodated. We had that process a little bit in the House, and it was not generally given very high marks.

I find it, again, amazing that money is falling from the sky to satisfy different folks, and yet these are the same folks who said $270 billion in cuts for Medicare, for example, was the only possible way to save Medicare.

So before yielding to three other Senators, I will say, where did all this money come from, and is it from Social Security, for example? Or is it from some other place?

There is a very bizarre formula for Medicaid in which I think the Republican States somehow end up doing much better than the Democratic States, but I may be wrong on that. Senator GRAHAM will speak on that.

Also, the amendment weakens the nursing home standards, a subject which is incredibly important to me. The Senator from Arkansas will speak on that subject.

At this point, with the permission of the Senator from Nebraska, I suggest that we go to the Senator from Arkansas, if that is all right with the Senator from Nebraska.

The PRESIDING OFFICER. The Senator does not wish to use his time.

Mr. EXON. Yes, I wish to use my time.

I yield 5 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished manager for recognizing me and allowing me a few moments.

This morning, by a vote of 51 to 48, the U.S. Senate voted in a bipartisan way to restore the OBRA 1987 nursing home regulations. They have worked well. They have served residents well. They have served the taxpayers well, and I am strongly committed to achieving that end once again.

Mr. President, with all due respect to the distinguished manager's amendment that we now have before the Senate, even though the distinguished manager says we are fixing or even improving upon current Federal nursing home standards, over the course of today I have been in contact with numerous consumer groups and nursing home reform advocates who are extremely critical of the language offered in the so-called manager's amendment.

First, this so-called "fix" does not indicate in any way the length of time for which a State could operate under a waiver and opt out of the Federal standards. Would the waiver last for 1 month where there would be no Federal standards applying to a nursing home or to a State? Would the waiver be for 1 year or 2 years or 10 years? There is nothing in the amendment to address this issue. Basic question.

Also, in the manager's amendment, there is absolutely no guidance whatsoever as to how the Director of HCFA or HHS would determine that a state's standards were sufficient to opt out of the Federal standards; there is no guidance whatsoever as to what the rules or the guidelines would be in granting making that determination.

Also, Mr. President, there is a major flaw in this amendment, I say with all due respect. I am just wondering if the distinguished manager knows that under this particular proposal that unless the Federal Government revokes a State's waiver, it could take—I repeat this—the Federal Government could take no action whatsoever against an individual facility, no matter what was going on in a particular nursing home. No action whatsoever means that the Federal Government's hands are tied, notwithstanding the fact that we are appropriating billions and billions and billions of dollars for the safety and well-keeping of the some 2 million nursing home residents out there in our country.

The very worst facilities in America could be getting away with just about anything, and the Federal Government would have absolutely no power, no recourse, no opportunity to go in and correct the wrongs in a particular home, simply because the State would have a waiver from Federal regulations and all of the Federal involvement allowing it.

Also—and finally, Mr. President—the Roth amendment provides a 120-day period during which the Secretary must review a State's waiver proposal to make sure that it contains all the essential elements, which would be insufficient time to go out and investigate that State's nursing homes or a particular nursing home.

This timeframe, 120 days, to decide whether or not a State could get a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

Let me say once again that the regulations that we adopted on a bipartisan basis in 1987 have worked and they have worked well. I do not know of one Member on either side of the aisle who can argue against that. I am very hopeful that we will make certain that when this process is over, that we will have the very strongest standards, and I truly believe that those strongest standards were supported this morning by the vote of 51 to 48 for the so-called Pryor-Cohen amendment adopted by the U.S. Senate.

I hope that will ultimately be the language that will be retained and that we will follow in the decades to come.

Mr. President, I yield the floor.

CHANGE OF VOTE

Mr. REID. Mr. President, I have a unanimous consent request.

On rollcall vote No. 553, I voted "no." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment purports to improve a very bad bill, but it does nothing, absolutely nothing, to address the fundamental problem. This Republican program slashes Medicare and Medicaid to pay for tax cuts for the wealthy. It sacrifices working families, children and senior citizens on the altar of sweetheart deals and tax breaks for the powerful special interests.

This amendment symbolizes what is worst about the 2,000 pages of the bill as a whole. Every time you turn one of those pages, something ugly scuttles out. Look at what is in the so-called perfecting amendment.

It weakens the nursing home standards we adopted just this morning. This morning we restored the strong standards that are in current law and that the Republican bill would have repealed. This evening, our Republican colleagues are trying to water those standards down.

The Medicaid formula changes are the last piece needed to put together a majority. Vote against seniors, vote against children, vote against families and, in return, we will rig the Medicaid formula so the disaster in your State is not quite as bad as in some other State. Like the underlying bill, this amendment was put together in the dark of night, and no wonder there is nothing to be proud of here.

The issue is clear: Who stands for senior citizens; who stands for working families; who stands for children; and who stands for the special interests against the interests of the Americans who work so hard to support their families, educate their children and build this country?

This amendment is a disgrace, and it does not deserve to be adopted. The underlying bill is an outrage. It deserves to be rejected by the Senate, vetoed by the President and condemned by the American people. Greed is not a family value.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. What is the status of the time, Mr. President?

The PRESIDING OFFICER. The majority has 21 minutes, 45 seconds; the minority has 19 minutes, 46 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator D'AMATO. How much would Senator COHEN like? And 5 minutes to Senator COHEN, in that sequence.

The PRESIDING OFFICER. Senator D'AMATO is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, I want to commend the manager and all those who have helped us come so far on this historic occasion.

Senator DOMENICI and Senator ROTH have done an incredible job. I believe some of us have done a rather poor job of letting the American people know exactly what is in this package. If you listen to some of the demagoguery that we hear about "greed" and "special interests," and "tax breaks for the wealthy," you would not really know what is in this package.

When I hear this business that "they are weakening nursing home standards," that is nonsense. Bull. I want to know how we can weaken nursing home standards when you must meet the Federal levels that you have today. You must have at least that or better. If that is not demagoguery, I do not know what is.

It is out and out fear and deception that is being practiced. When 90 percent of the tax cuts go to families earning under $100,000, I defy you to tell me that that is going to the wealthy. Let me be a little more particular: $141 billion in tax cuts goes to families that have children. Those families have to earn under $110,000. The bulk of that goes to families in the $50,000 to $60,000 range. Now, let us stop the nonsense about greed and wealthy people. That is working middle-class families.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield another minute to the Senator from New York.

Mr. D'AMATO. We are attempting to keep the promise that was broken by the President of the United States when he said, "We are going to give tax cuts to the middle class." Then he went and raised those taxes. And now

he says, "Well, maybe I made a mistake."

Well, he did make a mistake. We are returning IRA's to working middle-class families. And we are doing something about the marriage penalty. We always complained about that. There has not been anybody here on the floor who has run and did not say we need to do something about the marriage penalty. That is $12 billion in relief—a move in the right direction. And in student loans, a billion dollars to help pay for the interest.

Mr. President, this is a good bill, and it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I want to take this opportunity to address some of the Medicare and Medicaid provisions of this budget reconciliation legislation.

For the past few months, the debate on Medicare has been rife with partisan fingerpointing. Democrats accuse Republicans of ravaging Medicare, while Republicans counter with charges that the Democrats are failing to restore solvency to the program.

But the simple fact is that the Medicare hospital trust fund is going broke, and spending for Medicare part B—the optional program that covers seniors' doctor bills—is increasing at an unsustainable rate. Reasonable minds may disagree on how to resolve the looming crisis. But we cannot take the easy route and pretend to senior citizens—or Medicare providers—that the crisis will go away if we simply look the other way.

Changes in Medicare are crucial if it is to survive at all for current and future senior citizens. The Republican budget plan takes the tough steps necessary not only to restore solvency to the trust fund but also to prepare Medicare for the 21st century.

The President and congressional Democrats claim that $90 or $100 billion in savings will be sufficient to "fix" Medicare, and that the $270 billion in savings proposed in this bill cut too far and too deep.

What the Democrats have proposed would certainly be more politically palatable. But their proposal falls far short of the reforms that will be necessary to prepare Medicare for the future.

Guy King, the former chief actuary for the Health Care Financing Administration agrees with the Democrats that $90 billion will keep the trust fund solvent until 2006. But, by 2010, the year the baby boomers begin to retire, it will leave Medicare $309 billion in the red. It will be difficult enough to cope with this tidal wave of retirees when Medicare is solvent. It will be impossible if the program is over $300 billion short.

Under Republican budget, Medicare spending will continue to grow at an average annual rate of 6.2 percent over the next 7 years—less than the current 10 percent rate of growth, but still twice the rate of inflation. In fact, per beneficiary spending in Maine will increase by almost $2,000 over the next 7 years.

Equally important to controlling growth, the proposal will give beneficiaries more choice. The "Medicare Choice" plan contained in the bill closely resembles the Federal Employee Health Benefit program. Each year, Medicare beneficiaries will be given information on a number of plans available in their areas. They will then be able to elect to remain in the traditional fee-for-service plan or they can choose from a variety of other insurance options, such as health maintenance organizations, physician and hospital sponsored networks, or medical savings accounts.

The proposal does include, for the first time, an "affluence test" that would require the wealthiest beneficiaries to pay a fairer share of the costs of the Medicare program.

Taxpayers currently subsidize about 70 percent of the costs of Medicare beneficiaries' part B premium cost. The Republican plan phases out these taxpayer subsidies for upper-income retirees and eliminates them completely for individuals with incomes over $100,000 and couples over $175,000.

I believe that this is fair. There is no good reason why a working family with an income of $40,000 should be subsidizing wealthy retirees earning more than four times as much. Further, the vast majority of Medicare beneficiaries will be unaffected by the change—about 98 percent of all Maine Medicare beneficiaries have an income below the "affluence test" threshold.

I am very pleased that this budget bill includes tough anti-fraud legislation that I introduced earlier this year to help rid Medicare of the fraud and abuse that robs the program of as much as $15 billion a year.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penaties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system.

More importantly, the bill establishes an anti-fraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors by flowing back a portion of fines and penalties collected from health care fraud efforts to law enforcement.

According to the Congressional Budget Office, these provisions will yield over $4 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The proposal also makes significant reforms in the Medicaid program. Like Medicare, Medicaid is one of our fastest growing entitlement programs. Over the past few years, Medicare spending has increased at an alarming rate. Between 1988 and 1993, program costs have more than doubled. From 1990 to 1992, Medicaid grew at an average annual rate of 28 percent, while private health care and Medicare costs grew at less than one half that rate.

The current growth in Medicaid spending clearly cannot be sustained by either Federal or State budgets. In Maine, 22 cents out of every dollar spent by the State goes to pay for Medicaid, and next year, it may be even more. We simply cannot sit back and watch the program consumer get bigger and bigger bites out of the taxpayer dollar each year.

Under this budget plan, the growth in Federal Medicaid spending—which is now just over 10 percent a year—would be limited to a 7.2 percent growth rate in 1996, 6.8 percent in 1997, and 4 percent for the remaining 5 years. The plan achieves the necessary savings by converting Medicaid into a block grant which would guarantee only a lump sum payment to the States with very little in the way of strings.

While I strongly support increased State flexibility with regard to Medicaid, I believe that some Federal standards should remain in place to help ensure quality and to maintain some protections for vulnerable populations. This is especially important given the fact that the Federal Government will be committing nearly $800 billion in Federal dollars over the next 7 years toward the Medicaid program.

Therefore, I worked to ensure that guarantees of coverage for low-income children, pregnant women and the disabled—including the disabled elderly—were included in the final package. I am pleased that the bill as amended by the Senate includes provisions to provide these minimum guarantees to our vulnerable citziens.

I am also pleased that the final bill includes provisions that I and other moderate Republican Members authored, namely, a requirement that States continue to pay Medicare premiums for low-income Medicaid beneficiaries and requirements that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that this package provides has incorporated several of the provisions included in my legislation. The Private Long-Term Care Family Protection Act of 1995 to improve access to long-term care services. The legislation takes a big step forward in creating incentives for older Americans and their families to plan for future long-term care expenses and

removes tax barriers that stifle the private long-term care insurance market.

As Chairman of the Senate Special Committee on Aging, I know the obstacles many disabled older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long term care.

Sadly, many families are under the erroneous impression that their current insurance or Medicare will cover necessary long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is limited to acute medical care and that long nursing home stays and extended home care services must be paid for out-of-pocket.

This bill encourages personal responsibility and makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care insurance policies so quality products will be affordable and accessible to more Americans.

A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons need long-term care services.

In addition to providing better access to long-term care services, this bill incorporates a demonstration project I introduced last year to explore ways to better integrate long-term care with the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a maze of complex and often incompatible policies and rules.

The demonstration project included in this bill will allow up to 10 States to pool Medicare and Medicaid dollars for the purpose of creating a more balanced and cost-effective acute and long-term care delivery system. These projects will help States develop ways to better manage the care of high cost beneficiaries and offer elderly and disabled Americans full integration of services, including case management, preventive care and interventions to avoid institutionalization whenever possible.

I am also very pleased that this bill now maintains the tough Federal standards that are currently in place to protect elderly and disabled individuals living in nursing homes. Placing a parent, spouse, disabled child, or other loved one in a nursing home is one of the most agonizing decisions a family ever faces. Even once at peace with that decision, the nagging fear that a loved one may not receive adequate care, or may be abused or neglected in a nursing home, continues to haunt families nationwide. The continuation of OBRA '87 nursing home regulations is a major victory for today's two million nursing home residents, and tomorrow's growing elderly and disabled population.

This week I chaired a hearing of the Senate Special Committee on Aging hearing to examine the need for strong Federal quality of care standards in nursing homes. The testimony from family members and expert witnesses convinced me more than ever that the Federal Government must continue a central role in monitoring and enforcing nursing home standards. Witnesses shared with me heart-wrenching stories of how their family members were overdrugged, placed in physical restraints, and left to sit in their own waste while in nursing homes. I was also handed a picture by a daughter of one nursing home patient that showed a bloody, oozing bed sore that I will not soon forget.

The basis for this Federal nursing home standards law is simple, strong, and clear: that residents in nursing homes which receive Federal Medicare or Medicaid dollars should be treated with care and dignity. The law provides a framework through which facilities can help each resident reach his or her highest practicable physical, mental, and general well-being. It also provides critical oversight and enforcement of nursing home standards, following years of evidence that the states simply did not make enforcement of nursing home standards a high priority.

While the Finance Committee bill required that states include certain quality of care provisions in their Medigrant State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated that the bill lacked adequate Federal oversight and enforcement of nursing home standards.

Over the past few days I have worked with the Republican leadership and many of my colleagues on both sides of the aisle to ensure that this bill keeps intact the standards, enforcement and Federal oversight now contained in current law. No family member should have to lie awake at night worrying if their loved-ones are being abused or neglected in a nursing home. This bill gives nursing home residents and families peace of mind that their rights are protected and that the Federal Government will be ensuring States continue to enforce quality standards for nursing home care.

The bill provides for states to receive waivers from the Federal nursing home reform law only in tightly crafted circumstances. Specifically, a State may apply for a waiver of standards only if its standards are equal to or more stringent than the Federal requirements. The amendment clearly indicates that no such waiver is allowed unless the Secretary approves the waiver, and only if each standard is equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waives or limits the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA 87.

Mr. President, while I believe that this package includes many important steps toward reforming Medicare and Medicaid, there are some elements of the proposals that I do not support.

During the course of the debate on the bill, I have supported amendments and worked to incorporate provisions aimed at striking a more appropriate balance between Federal responsibility and State flexibility, and ensuring protections for our most vulnerable populations. This effort is far from complete and I will continue to work toward achieving the goals of deficit reduction and Medicare and Medicaid reform.

Mr. President, let me address the issues raised by my colleague from Arkansas, since he and I have worked for many years in dealing with the nursing home reform. It was called OBRA 87, but it is basically the nursing home reform that we worked 15 to 17 years to get passed. We held a hearing this week in the Aging Committee in which we, once again, reaffirmed the need and saw the need to maintain strong Federal standards over nursing homes in our country—not only standards, but enforcement, oversight and enforcement procedures.

This is not, as some might think, a last-minute attempt to weaken and dilute what was done this morning. I should tell my colleagues that I have been working for the past 3 or 4 days with the majority leader and his staff, anticipating that we would have a debate, understanding the House of Representatives wants no standards imposed. They want to turn it over to the States entirely.

In anticipating that, I went to the majority leader saying, this is important to me, it is important to us, it is important to the country. We need to develop these standards and do it in a way that we can have broad, bipartisan support. So that has been something we have worked on for the past 3 days. In fact, we worked until last night midnight trying to work out the language.

So I just want to assure my colleagues on the other side, this is not something that has been concocted in

the dark of the night in order to weaken what was done this morning. I supported strongly what was done this morning.

This particular measure reaffirms the need to have OBRA 87 standards. We want the nursing home reform standards we passed in 1987. We finally started to get the civil monetary penalties imposed as of July of this year. We finally have some bite into those standards. I do not want to see those thrown overboard.

I said to my colleagues on this side of the aisle that we need these standards. Let us reaffirm our support for them. Let us reinsert OBRA 87, as such, and we can make some changes in some of the paperwork and the burdens that the nursing home industry has complained to us about.

I think my colleague from Arkansas will agree that we have had these complaints. No law is perfect. We have tried to modify laws over the years to make sure that, if we overreach, if something is too burdensome, too costly, or duplicative, we make changes. So we made some minor changes which I think are positive as far as I am concerned.

The one apprehension I had is in the point raised by my friend from Arkansas; that is, "If States show that they have standards equal to or greater than, . . ."—I saw that as a red flag and said, wait a minute, I do not want to create that much of an exemption. I am not sure where the enforcement is going to lie.

I worked very hard late last night with my staff and with the majority staff to make sure that any State—and I do not know of any State that has the same or better ones than the Federal ones. But assuming States come forward, as they have not in the past, and raise their standards to those at the Federal level, if they can establish that, and if they can satisfy the Secretary of Health and Human Services that they have done that, that does not mean they are free and clear to go forward and then abuse their patients. I insisted that the Federal Government still retain oversight and still retain enforcement responsibilities.

I believe that is in the law itself, in the language—that the Federal Government would still have the ability to go in to find out if there are violations and to enforce penalties. I know my colleague from Arkansas disagrees with that interpretation. But that is specifically what we worked out last evening. I believe that is in the language itself. I will yield to my friend if he has a question.

Mr. PRYOR. If my good friend from Maine, who has worked very hard on this bill, would point out where in this language it says that after a State receives a waiver—where in the world the Senator might even infer that the Federal Government would have an opportunity to impose fines, penalties, or to have any jurisdiction on individual facilities? In fact, if I might, on page 37, it says, ". . . State oversight and enforcement authority over nursing facilities," not Federal.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes, equally divided between the two Senators to respond.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes so that the Senators can respond.

Mr. DOMENICI. Mr. President, I yield an additional minute to Senator COHEN.

Mr. COHEN. If you look on page 38 under section (D):

> No Waiver of Enforcement. A State granted a waiver under subparagraph (A) shall be subject to (i) the penalty described in subsection (b); (ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

What we have done in this section is to say that just because you get a waiver, you are not free from the enforcement provisions here. The Federal Government retains the authority to go in and impose those penalties. Were that not in there, I would not be supporting this.

Let me say one other thing to my colleagues. As I indicated before, the House has no such protection. We passed the measure we supported this morning by, I think, three votes. It is my belief—and I support what we did this morning, and I reaffirm that action—that we are going to be in a much stronger position with a majority endorsing what we are doing here and going to the conferees and saying we want this provision, and it will remain in the bill, and we will have it when it goes to the President.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. I yield 1 minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the manager. Mr. President, on page 38 in section (C)—let me say to my good colleague and friend from Maine that, according to this section and the sections preceding it, if a State has opted out, if they have been granted a waiver for an indeterminate amount of time—and it could be 30 days or 30 years; who knows?—but if that State is under a waiver of the requirement, the Federal Government cannot fine any nursing home in that particular State, the Federal Government cannot penalize, cannot say you cannot take in any more Medicaid patients. Only the State has this jurisdiction.

I am trying to impress upon my friend that, he not knowingly, not willingly, is helping to weaken drastically the nursing home standards that have worked so well since 1987.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I do not think we should be voting on this amendment.

In the last several hours, my State of Minnesota just discovered that it will be faced with $500 million more in reductions on top of the $2.4 billion. What happened, Senators, in the last several hours? What kind of decisionmaking process is this?

It does seem to me that people in Minnesota and across this country have a right to know what in the world is going on here. These are the lives of our children—they are covered. These are the lives of elderly people, nursing homes—they are covered. These are the lives of people with disabilities—they are covered.

We should not even be voting tonight. This is back-room deals. This is not a democratic—with a small "d"—process.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Nebraska.

I have listened carefully to the debate this evening, but I think the simple fact is that no State in the Union is impacted by this amendment and this bill to the extent that California is.

Senator ROCKEFELLER asked earlier where the money comes from to pay for this amendment. Mr. President, I'll tell you where the money comes from.

$4.2 billion of it comes from Medicaid that in the earlier version went to California. California is the biggest loser in this amendment. This will affect more than 8.6 million people in the State of California.

This bill, I believe, is immoral, egregious, and in my 2½ years I never thought I would stand here on the floor of the Senate and see the largest State in the Union treated the way it is in this bill.

The PRESIDING OFFICER. The majority has 12 minutes and 32 seconds remaining, and the Democrats have 16 minutes and 32 seconds.

Mr. EXON. Mr. President, in the time that I have remaining, I wish to allocate 2 additional minutes whenever he wishes to use it to the Senator from West Virginia, and I yield 12 minutes to the Senator from Florida for use whenever he thinks appropriate.

Mr. GRAHAM. Mr. President, when Harry Truman was running for President in 1948, at one of his whistle stops the people cried out, "Give 'em hell, Harry." He said, "Friend, I don't have to give them hell. I just tell them the truth and the truth gives them hell."

That is what we are talking about tonight. The truth gives them hell.

We have heard from Senator PRYOR what this does to rape the standards that have made life tolerable for hundreds of thousands of persons—our most vulnerable people—in nursing homes.

Let me talk about two other features of this bill. Let me talk about how we

are going to allocate over $770 billion of your American taxpayers' money over the next 7 years and the standards by which those allocation decisions were made.

There is no rationale to the allocation formula which is in this bill. I have been asking for better than 36 hours to get the legislative language. Finally, at 6:25 p.m., we got the first version of the legislation but not the last version. The last version came at 9:45.

Let me direct your attention, if you have the 6:25 version, to page 36. I ask someone on the Republican side to explain the theory and philosophy behind this allocation.

On page 36, line 11, it says. "Additional Amounts Described. The additional amounts described in this paragraph are as follows," these are additional amounts that go to States just because they are the States.

Arizona gets $63 million; Florida gets $250 million, thank you; Georgia gets $34 million; Kentucky, $76.5 million; South Carolina, $181 million; the State of Washington, $250 million.

That was the list as of 6:25. But by 9:45, Vermont has come on for $50 million.

Friends, we have talked a lot about balanced budget, about fiscal prudence and responsible use of taxpayers' money. That is how your money is being used.

Let me tell you another little fact in terms of the rationale of distribution. Of the States which have two Democratic Senators, the difference between what those States would have received out of a pool of dollars that was $10 billion less—$10 billion less—total money to be distributed. Those States which have two Democratic Senators lost $3.605 billion. Of the States that have two Republican Senators, they gained $11.222 billion.

That is the rationale way in which we are distributing $770 billion of the taxpayers' money.

Now, how did we arrive at these absurd allocations? We did it largely because, unlike the Finance Committee which very thoughtfully made the decision to restrict the amount of money that a State could continue to take into its base for allocation, those funds which were derived from what is called disproportionate share, disproportionate share.

What is disproportionate share? It was the amount of money that was distributed to States over the periods of the 1970's and 1980's theoretically to make up for the hospitals that had a high incidence of poor and underserved populations. That became the fastest growing element of the Medicare program. In fact, in 1990, disproportionate share was only $1 billion; by 1992, it had gone to $17.4 billion.

Why had we seen this enormous increase? We had seen the enormous increase according to a GAO report, General Accounting Office report, dated April of this year, because there were States which were scheming this money. The swapping and redirecting of revenues among providers, the State and the Federal Government resulted in increased Federal spending, increased funds for providers, and in some cases additional revenue for State treasuries.

So States were manipulating this disproportionate share to their benefit. Under the original Finance Committee, we would have retained and limited the benefit that could have been gained by that previous predatory action. We have now taken all of the constraints off. We have now said that a State can go back to 1994 and count every dollar that they had gotten under that disproportionate share.

Let me tell you something, Mr. President, that may be surprising. The GAO did a report, a special report, on three States. I will be blunt and say who they were: Michigan, Tennessee and Texas. Michigan, Tennessee, and Texas.

Of all of the new money that came into this plan in the last 24 hours, the $10 billion, how much do you think Michigan, Texas and Tennessee got? Mr. President, $6.5 billion. They got almost 2 out of every 3 new dollars that went to those States which have been identified as the principal perverters of the system.

What kind of policy is that? We are going to reward and benefit those States which have been ripping off the Federal taxpayers? What kind of a plan is this? I would be very interested to get a response from our Republican colleagues on that issue.

Friends, the fact that we are about to rape the elderly nursing home, the fact we are raping the Federal Treasury and rewarding inappropriate, I would say criminal past behavior is not the end of it.

Where are we getting the $10 billion from? We are getting the $10 billion by raiding Social Security.

The last position of this legislation states that how we are going to fund this $10 billion, where it will come from, is because we are going to say that we will break our previous practice of using the Congressional Budget Office as the means of calculating what our deficit position is, and we will for this year take the lower cost-of-living number, which has just recently been reported, leave everything else in our revenue estimates the same, but plug in that new number, which is a 2.6 cost-of-living factor rather than a 3.1.

Now, we are not going to do this as it relates to revenue. You know there are some rich people that benefit by this cost of living because their taxes are indexed. They get held down by virtue of a higher cost of living. We are only going to use this against the old folks—primarily Social Security and other Federal retirement programs—who are going to have their money used as the basis of funding this raid in order to benefit a handful of politically powerful—and I would say probably politically greedy—States in order to pass this atrocious proposition.

What has the Congressional Budget Office had to say about this particular raid on the Federal Treasury? The Congressional Budget Office has stated—this is Paul Van de Water, who is the Assistant Director for Budget of the Congressional Budget Office. He states that the Congressional Budget Office and the Office of Management and Budget "do not score savings for legislating a COLA that would happen anyway under current law. This rule was applied to veterans compensation in 1991 and to food stamps in 1992."

In other words, we are changing our previous Congressional Budget Office policy.

But, friends, it gets worse. Mr. Van de Water goes on to say that:

> At the request of the Budget Committees, the CBO has from time to time updated the baseline to reflect recent economic and technical developments. In such circumstances, however, we insist on incorporating all relevant new information, not just selected items, such as COLAs. In this instance . . .

Friends, listen to this sentence.

> . . . if we were to include all of the information in our August baseline, plus the actual 1996 COLA, our estimate of the 2002 deficit . . . would be higher.

It would be higher, not lower.

So we are using a fraudulent method in order to calculate what is presented to be savings in order to fund this atrocious raid on the public Treasury when the Congressional Budget Office said, if they were asked the right question they would not only not have scored this as creating any additional money, but they would have said that we would have a greater deficit than we started with.

So, friends, that is what we are about with this amendment in the Finance Committee that we have waited 36 hours to get. If you want to know why this stealth bomber was out there all those hours when we kept asking, Can we see what is in this proposal, can we see the legislative language, can we see the State-by-State numbers—we could not get any answer. Sorry, it is too complicated. It is being worked. The technicians are pouring over it.

I am certain the technicians came up with a formula that gave $11 billion of additional funds to States that just happened to be represented by Republicans and cut the funds from the States that happened to be represented by Democrats. That was just a technical oversight.

And then to have the gall to raid our Social Security fund as a means of financing this, is there no limit to what we ask our older people to do? We are cutting their Medicare. We are eliminating other important programs for the elderly. And now we are using their Social Security in this back-door means as the basis to fund an additional $10 billion which does not exist, which is going to add further to the deficit, to give money to a few favorite States so that they can corral the votes to pass this steamy mess.

My friends, I wish this thing would stay the stealth bomber. It is better if we did not see it than if it finally appeared on the radar scope and we are able to look and appreciate the details.

Mr. President, fellow colleagues, the answer tonight is a simple answer: that is, to defeat this amendment. As bad as the proposal passed by the Finance Committee was, it looked so much better than what we are about to vote upon. We have converted a frog into a beauty with this amendment.

So I urge my colleagues to vote this amendment down, and let us at least send the conference something that we in the Senate can have some degree of satisfaction as it is taken up in conference.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from New Mexico has 12 minutes and 32 seconds, and the Senator from Nebraska has 4 minutes, 24 seconds.

Mr. DOMENICI. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, with reference to the formula, let me just state for the record that 46 States are better off under this formula than the House formula. Many of those have Democratic Governors and many of those have Democratic Senators. Many of those have Republican Governors and Republican Senators.

Let me repeat. Under this formula, 46 States are better off than in the House formula.

Mr. President, Senator COHEN has adequately answered the remarks with reference to nursing homes. I do not know how anybody could stand on the floor of the U.S. Senate and say that we are raping the nursing homes when we have just heard Senator COHEN, one of the strongest and best advocates, say that has been fixed in this bill. He just said it. He repeated it. He read the language. And so we hear it from that side over and over again.

Let me tell you with reference to the money in this budget that is used for some of the reallocation, that there is nothing wrong with it. It is not phony. It is plain and simple, the fact: We have already established in the United States of America that the Consumer Price Index is not 3.1 percent, but, rather, 2.6 percent. We are not talking about 3 years from now. We are talking about right now. It is not 3.1, as estimated in this budget. It is 2.6. The reality is that is not going to change. It is 2.6 for the rest of the year. It just happens, if you do the numbers, that saves $13.1 billion. That means $13.1 billion less is being spent because of the real Consumer Price Index—not speculation and not changing anything. That is where you get $13.1 billion.

The reason we only use $13.1 billion is because we did not want to use the tax revenues and spend them. We left them there. So we only used the revenues that I have just described. It does not mean we changed anything on the Tax Code. The taxes are going to come out at the 2.6 level in terms of the bracket creep that will be adjusted. So that argument just misunderstands what we have done and what the reality is.

Having said that, Mr. President, I am led to believe that, in spite of this interoffice memorandum, there is nothing from the Director of the Congressional Budget Office. This is somebody that works there named Paul Van de Water, writing to somebody named Sue Nelson, who is on the staff of the Budget Committee, and gives a little history of what has and has not been done.

The truth of the matter is that Chairman Sasser last year came to the floor—in 1993, excuse me—and he said, "I want to adjust the numbers for reality, for the real thing." And, in fact, he adjusted two items in the budget for what he perceived to be the real numbers. In doing that, revenues and moneys were found to make their budget come out as planned.

Frankly, ours is absolutely real because the Consumer Price Index is not 3.1 percent. The checks are going out at 2.6. We are not taking money away from anyone.

I am led to believe this is not subject to a point of order, and we decided that we were going to reallocate some money because a number of States felt that they had not been treated fairly here. Some said they had been treated fairly in the House. Others said they had not, and we still have to go to conference in order to come out with the final formula and final distribution.

So as far as that part is concerned, how the allocations came about, I was not part of that committee. I trust them. I think they did a good job. And the chairman is here. They all worked together on it. Perhaps he wants to explain in more detail.

But let me suggest that we in no way—in no way—are attempting to defraud anyone. As a matter of fact, this budget will be balanced in the year 2002, and if you need a letter on that from June O'Neill, we will get it for you.

This does not unbalance the budget, because we have a $13 billion surplus in 2002, and we do not use up that surplus. You do not even come close to using it, so we will still be in balance.

If I have not used my time, I wish to yield it back. And I want to ask Senator ROTH if he wants to talk for a couple minutes, or Senator DOLE.

The PRESIDING OFFICER. The Senator has 7 minutes 35 seconds.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Seven minutes 35 seconds.

Mr. DOMENICI. We will reserve our time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 24 seconds and previously yielded time. I believe 2 minutes.

Does the Senator wish to reallocate his time?

Mr. EXON. The Senator from West Virginia is not interested in additional time.

I wish to yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. PRYOR. Mr. President, I will not use all my 2 minutes.

Mr. President, I rise to ask a parliamentary inquiry.

Mr. President, this morning by a vote of 51 to 48, the Senate voted for an amendment offered by myself and Senator COHEN of Maine. The amendment was adopted and agreed to. Presently pending is another amendment with different language proposed by the distinguished chairman of the Finance Committee, Senator ROTH, in the manager's amendment. Should the manager's amendment pass, does the manager's amendment encompassing or including the nursing home provisions of Senator ROTH, does it prevail over the amendment passed this morning by a vote of the Senate?

The PRESIDING OFFICER. The Chair is informed that by virtue of the fact that this amendment covers a broader spectrum of the bill, if the Senate adopts this amendment, it would prevail over the previous text that was included in the smaller reaching amendment that was voted upon this morning.

Mr. PRYOR. Mr. President, then if I have any time remaining, I would simply ask my colleagues on the other side of the aisle, why? Why are we obliterating these nursing home standards that have worked so well for these years, that my colleague from Maine was saying just now are having their bite? Why are we taking that bite out?

I think, Mr. President, we are going to be committing a terrible mistake if we do. I hope we will not adopt the chairman's amendment.

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds.

Mr. EXON. I yield 2 minutes 50 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes 50 seconds.

Mr. GRAHAM. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. GRAHAM. Are outlay reductions to Social Security used to offset the spending of this amendment?

The PRESIDING OFFICER. The Chair is not in a position to answer that question.

Mr. GRAHAM. Would the Chair like to be informed on that matter so that he might be in a position to answer that question?

The PRESIDING OFFICER. The Chair would be happy to listen to the Senator from Florida.

The Senator has 2 minutes 30 seconds. The parliamentary inquiry does not come out of the time.

Mr. GRAHAM. Mr. President, I send to the desk for the review of the Chair as well as for inclusion in the RECORD the 1996 COLA versus conference resolution baseline assumptions data, October 16, 1995.

I would like to ask that these be compared with the projections which are utilized to produce the revenue for purposes of supporting the funding contained in this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

All Cash Benefit Programs Indexed to the CPI

ACTUAL 1996 COLA VERSUS CONFERENCE RESOLUTION BASELINE ASSUMPTIONS

[Outlays shown by fiscal year. In millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Social Security	−1,273	−1,729	−1,769	−1,782	−1,788	−1,788	−1,795	−1,811	−1,836	−1,867
Railroad Tier I	−18	−25	−26	−26	−26	−26	−27	−27	−28	−28
Railroad Tier II	−4	−5	−5	−5	−5	−5	−5	−5	−5	−5
SSI	−83	−110	−127	−135	−215	−150	−217	−248	−260	−271
Food Stamp Offset	16	23	24	25	34	27	34	38	39	41
Military Retirement	−11	−144	−150	−160	−167	−174	−182	−190	−198	−206
Vets Compensation	−50	−81	−78	−74	−90	−100	−111	−124	−138	−153
Vets Pensions	−10	−13	−12	−11	−12	−12	−12	−12	−12	−12
Civilian Retirement	−94	−188	−189	−191	−193	−196	−198	−201	−203	−206
FECA	−3	−5	−3	−1	−1	−1	−1	−1	−1	−1
Foreign Service	−1	−2	−2	−3	−3	−3	−3	−3	−3	−3
PHS Retire	0	−1	−1	−1	−1	−1	−1	−1	−1	−1
Coast Guard Retire	0	−2	−3	−3	−3	−3	−3	−3	−3	−3
SMI Offset	0	0	0	0	0	0	0	0	0	0
Medicaid Offset	0	0	0	0	0	0	0	0	0	0
Total	−1,529	−2,290	−2,340	−2,365	−2,468	−2,431	−2,520	−2,587	−2,648	−2,716
Cola Assumptions (in percent):										
Actual 1996	2.6	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2
Resolution Baseline	3.1	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2

The PRESIDING OFFICER. The Senator's time is running.

Mr. GRAHAM. Mr. President, it was my understanding that time for points of order and parliamentary inquiry is not charged against the time. Is that correct?

The PRESIDING OFFICER. Respectfully, the Senator has been answered as far as the parliamentary inquiry is concerned. The Chair is not capable of making the comparisons the Senator wishes.

Mr. GRAHAM. I wonder if the Senator from New Mexico or the Senator from Delaware as chairs of the respective committees would like to comment whether they believe there are outlay reductions to Social Security used to offset the spending in this amendment.

Mr. DOMENICI. I am satisfied with the ruling of the Chair. I have no comment on that.

Mr. GRAHAM. Mr. President, I raise a point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment.

The PRESIDING OFFICER. The Chair might inform the Senator from Florida, and will not use the time but give back his time, until the time is all used, it is not yet in order to make a point of order.

Mr. GRAHAM. Mr. President, I will withhold, but reserving the time to make a point of order at the appropriate time.

The PRESIDING OFFICER. The Senator will have that time. He has 45 seconds remaining.

Mr. GRAHAM. Mr. President, just to prepare for the consideration of the point of order that will be made, I would draw the attention of the Chair to subtitle (c) of the Social Security Act, section 13301 which states:

Off budget status of Social Security Trust Funds. Exclusion of Social Security from all budgets. Notwithstanding any other provisions of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, for deficit or surplus, for the purposes of the budget of the U.S. Government submitted by the President, the Congressional Budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder who wants time on this side.

I yield 2 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. Two minutes to the Senator from Delaware.

Mr. ROTH. First of all, Mr. President, I think it is important to understand that 45—45—of the 50 States are better off under the Senate amendment than they are under the House. And I would just like to make passing reference to the three States that are said to have Democratic Senators.

Just let me point out that in the case of California, it is up $700 million from the House; Florida is up $1.3 billion from the House, and Minnesota is up $500 million from the House.

Now, one of my distinguished colleagues on the other side mentioned the treatment for seven States on page 36. And I just want to point out that six of these seven States that get additional amounts have one Republican Senator and one Democratic Senator. That was not based on partisanship. It was based upon need. And that is the point I wish to make.

In concluding, the statement was made that we are using the savings from Medicare and Medicaid for a tax cut. That is pure demagoguery. There is no truth to that.

As a matter of fact, the President's board of trustees, long before we talked about tax cuts, said we had to do something about the trust funds for Medicare. And that is what we are doing with this legislation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. How much time is left on our side?

The PRESIDING OFFICER. Five minutes twelve seconds.

Mr. DOMENICI. The other side has used all their time?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield 3 minutes to Senator COHEN.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. COHEN. I thank the Senator for yielding.

If I could point out what is also in this measure that has not been talked about in the last few moments.

No. 1, there are set-asides for the QMB program. I think everyone is familiar with what I am talking about. That is in the manager's amendment. There is a requirement that States impose strong solvency standards on Medicaid providers. That is in this amendment. There is an increase in Medicaid funding. That is in this amendment. There is more money for Medicare in direct education payments, and allows for more causes of action to enforce Medicaid provisions.

What was not talked about in terms of this measure is the following: We, under this measure, are imposing the nursing home reforms on the States. OBRA 1987 will remain in effect. That is what this amendment contains.

No. 2, not only do we have the same standards in effect, we also have enforcement in effect. Those two key points have to be made. The States are required to comply with the national standards, and those enforcement standards remain in effect.

There is a waiver provision contained on page 38. And I call all of the attention of my colleagues to it. What it says is, if a State does in fact have equal to or greater standards, they

may qualify or try to apply for a waiver. They can do that. If they have penalties that are equal to or greater than what is in the Federal law, they can apply for the waiver.

The Secretary of HHS has 120 days, in which time he either grants it or denies it. And assuming he or she grants it, he or she still retains the authority to go in there and impose penalties upon the State if there is any deviation from the standards. They can suspend and terminate the institution. They can terminate the waiver.

No. 3, at the bottom of the page, please look at it. "Any other authority available to the Secretary to enforce requirements of section 1919." That is OBRA. That says the Secretary of HHS still has all of the authority to enforce every single provision in OBRA '87, all the way up to the change we made as of this date.

So, I want to assure my colleagues I would not be supporting this if I did not believe that we for the first time have the majority saying we want to maintain OBRA '87. We want the same standards. We want the same enforcement levels. We will provide some opportunities for a waiver, but only if they measure up to what we expect, and then the Secretary retains the authority to impose every single penalty. So in many ways we give more authority to the Secretary under these circumstances.

So, please, I hope everyone will not mischaracterize what is being done here.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico has 2 minutes 13 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator DOLE.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I just want to say I think we had a fair discussion of this amendment, and we indicated to the Senator from Florida this morning we would have that discussion. He did have access, as he indicated, to the information at about 6:27. So, I believe we had adequate time to take a look at it.

We made a lot of changes. Changes are always made in a big, big package like this by either party, both parties, whatever. I believe the Senator from Maine and the Senator from Delaware and others pointed out these have been very constructive changes.

We always have these formula fights. And there is always someone running around with a sheet of paper saying how much one State got over the other State. I can name a State with two Republican Senators where they are getting $500 million less than they had in the middle of the week. They were not very happy about it, but that is the way the formula worked. Florida gets $1 billion more, California $700 million more than we had in the committee. Minnesota gets $508 million more than we had on the House side.

So we believe we are making progress. We are going to go to conference. We discussed this with the Senator from Minnesota, I might add. He is aware of it. He was concerned we were going to adopt a House formula which was $508 million less.

So, I say to my colleagues, it is time, I think, we wrap it up around here. And I hope that we will have every—all the votes. Everybody ought to vote for this amendment. This is a very constructive amendment, whether it is nursing homes, whatever it is. I know there is a lot of politics about nursing homes. I know the liberal media bought into the spin put on by the Democrats.

But the Senator from Maine would not be standing up here making these statements if they were not accurate. If anybody wants to question the integrity or the credibility of the Senator from Maine, they ought to stand up and do it. They are not going to do it because he has total integrity and total credibility on this issue.

I believe that we have made constructive changes. I hope we will have, if not any support from that side, solid support on this side of the aisle for this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am directing my attention to section 7482 of the legislation, which begins on page 45 and states:

Cost-of-Living Adjustments During Fiscal Year 1996.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average of all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

It is to that section, Mr. President, that I direct the point of order. I raise the point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment because it counts $12 billion in cuts to Social Security which is off budget to offset spending in the amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico wish to be heard on this point of order?

Mr. DOMENICI. I want to say the dollar numbers being referred to are actual. That is all I want to say.

Mr. GRAHAM. Mr. President, could I respond to the—do you wish further debate on the point of order?

The PRESIDING OFFICER. It is not debatable. I note the Senator from New Mexico wishes not to make a statement.

The scoring of this bill under the Budget Act is under the control of the chairman of the Budget Committee, and the precedents of the Senate do not go beyond that. The point of order is not well taken.

Mr. HARKIN addressed the Chair.

Mr. DOMENICI. I ask for the yeas and nays.

Mr. HARKIN. I raise a point of order under section 310(g) of the Budget Act because the pending amendment achieves its savings by changing the cost-of-living provisions of section 215 of the Social Security Act, and changing title II of that act violates section 310(g) of the Congressional Budget Act.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. CPI was not changed as referred in that act.

The PRESIDING OFFICER. The Chair is informed that the provisions in the act cited are not applicable to this instance and that the point of order is not well taken.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HARKIN. Section 7482 on page 45 of the pending amendment, line 22, states: "Notwithstanding any other provision of law . . ." Parliamentary inquiry. Is this not referencing title II of Social Security?

The PRESIDING OFFICER. The Chair is informed that that would not be interpreted as referencing anything. That is to indicate that without regard to any other provision of law, this provision of this bill would become law.

Mr. HARKIN. Further parliamentary inquiry.

Is the Chair then ruling that by that very sentence, "Notwithstanding any other provision of law," that that would, in fact, cover title II of Social Security since it is law? And that, "Notwithstanding any other provision of law," therefore, that overcomes title II of Social Security?

The PRESIDING OFFICER. The Chair would state that that interpretation—I must yield to the Senator's inquiry. The Senator is asking this Chair to act as a court and make a determination of law and the conflicts of law, and that is not within the proper prerogative of this Chair.

Mr. HARKIN. Further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Is the Chair ruling, as pertains to the ruling on Senator GRAHAM's point of order, is the Chair ruling that the Social Security Act, title II, may be changed within the reconciliation process by drafting a provision to read, "notwithstanding any other provision of law"?

The PRESIDING OFFICER. The Chair's ruling with regard to the point of order of the Senator from Florida was on the basis of the issues he stated. The Chair is not ruling—the Chair is not ruling—as the Senator indicated, that there is any indication here before the Chair of a provision to change the Social Security Act.

Mr. HARKIN. One last——

Mr. GREGG. What is the regular order?

Mr. HARKIN. One last parliamentary inquiry.

Mr. GREGG. I am asking for the regular order.

Mr. HARKIN. One last parliamentary inquiry.

The PRESIDING OFFICER. The regular order is for the Chair to determine if there is a bona fide parliamentary inquiry being presented to the Chair. One further inquiry.

Mr. HARKIN. If that is the ruling of the Chair, the Social Security law must be naked to attack under reconciliation.

Would not section 310(g) of the Budget Act be now rendered meaningless by the precedent the Chair is now setting?

The PRESIDING OFFICER. The Chair has no intention of rendering meaningless any provision of the Budget Act. We are attempting to comply with the Budget Act. The Chair is informing that the chairman of the Budget Committee has the authority, as did the previous chairman, to make the determination that has been made with regard to this aspect of this bill.

Mr. DOMENICI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 554 Leg.]

YEAS—57

Abraham	Cochran	Gramm
Ashcroft	Cohen	Grams
Bennett	Coverdell	Grassley
Biden	Craig	Gregg
Bond	D'Amato	Hatch
Bradley	DeWine	Hatfield
Brown	Dole	Helms
Burns	Domenici	Hutchison
Campbell	Faircloth	Inhofe
Chafee	Frist	Jeffords
Coats	Gorton	Kassebaum
Kempthorne	McConnell	Smith
Kyl	Murkowski	Snowe
Lautenberg	Nickles	Specter
Levin	Pressler	Stevens
Lott	Roth	Thomas
Lugar	Santorum	Thompson
Mack	Shelby	Thurmond
McCain	Simpson	Warner

NAYS—42

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Heflin	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Conrad	Johnston	Reid
Daschle	Kennedy	Robb
Dodd	Kerrey	Rockefeller
Dorgan	Kerry	Sarbanes
Exon	Kohl	Simon
Feingold	Leahy	Wellstone

So the amendment (No. 3038) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any other amendments to this bill?

Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed——

The PRESIDING OFFICER. If the Senator will withhold. The Senate is not in order.

Mr. EXON. Mr. President, our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed that each and every provision in our point of order is indeed a violation of the Byrd rule. So I renew my point of order under the Byrd rule.

The PRESIDING OFFICER. The chair is informed that the Parliamentarian's office has indicated it has reviewed the presentation made concerning extraneous provisions, some 49 provisions. On the basis and advice of the Parliamentarian, the Chair sustains 46 of those.

Mr. DOMENICI. Mr. President, I move to waive some or all of these.

The PRESIDING OFFICER. The Senator has that right.

Mr. EXON. Mr. President, could we have a ruling of the Chair?

Mr. DOMENICI. If you do the ruling, we cannot appeal it.

The PRESIDING OFFICER. The Chair is informed the motion to waive would take precedence over the ruling.

The Chair is prepared to rule.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. DOMENICI. If I move to waive and send that to the desk with an attached list of the points of order but not all of them, what governs the debate on that proposal?

Is there any debate?

The PRESIDING OFFICER. There is no time left for debate without agreement. The point of order has been raised. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate.

Mr. DOLE. I wonder if the Democratic leader would have, say, 10 minutes equally divided.

Mr. DASCHLE. We have no objection.

The PRESIDING OFFICER. Is there objection to the request of 10 minutes equally divided on this issue?

Does the Chair interpret the leader to mean on the motion to waive the point of order? Is there objection?

Five minutes on a side, then, on this issue.

DOMENICI MOTION TO WAIVE THE BUDGET ACT

Mr. DOMENICI. Mr. President, I send a list of the points of order that I am moving to waive—a partial list of the Exon points of order.

Mr. President, pursuant to section 904(c) of the Budget Act, I move to waive the Budget Act for the consideration of the following provisions and for the language of the provisions if included in the conference report:

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
2174	Individual Entitlement	313(b)(1)(A)	Extraneous: no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C—Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous: costs. Provides additional grants to states with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former States.	313(b)(1)(A)	Extraneous: no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous: does not score. States may not provide assistance for more than 5 years on a cumulative basis: can opt to provide it for less than 5 years.
406(6)	State Option to Deny Assistance For Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous: does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous: does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous: costs. Provides additional funds to states that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous: costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous: no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous: no cost impact.
Subtitle D—SSI:			
Chapter 5:			
7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous: no cost impact. Savings accrues to the state.
Chapter 6:			
7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous: no cost impact within the 7-year budget window.

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle G—Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J—COLA's:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.

Mr. DOMENICI. Let me explain what is in it: only provisions included in the welfare bill.

The reason I did that is because the Senate approved the welfare bill—87 votes on the welfare side.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. I send it to the desk.

The PRESIDING OFFICER. The Chair will have to look and see whether there are any of these provisions not covered by the ruling that the Chair was prepared to make.

Mr. KERRY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Hold up for a minute, please.

What is the parliamentary inquiry?

Mr. KERRY. The parliamentary inquiry was whether or not the Chair was in the process of giving a ruling which would assist us to know what the relevancy of the waiver is. The Senator would certainly appreciate hearing the ruling.

The PRESIDING OFFICER. The Chair will inform the Senate that the Parliamentarian has indicated the proper procedure would be to act on the motion of the Senator from New Mexico to waive the point of order.

It is a partial waiver, he sees. During the vote on that matter, we will assert whether the items that the Parliamentarian informed the Chair were not acceptable were covered by this motion.

If they are not, we will then proceed to rule. There were three items that the Parliamentarian indicated should be dropped from the statement of extraneous provisions provided by the Senator from Nebraska.

There is now 10 minutes equally divided, 5 minutes on a side.

Mrs. BOXER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

We have a time agreement now. There can be no further parliamentary inquiry without using the time.

Mr. EXON. I yield 1 minute.

Mrs. BOXER. I want to know which three the Chair has ruled on.

The PRESIDING OFFICER. The Chair has not ruled and will not rule under the Parliamentarian's advice until the Chair acts on the motion to waive the point of order on a series of these items.

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. There is no time until we use this 10 minutes, except for that purpose.

Mr. KERRY. Parliamentary inquiry takes precedence over request for time.

The PRESIDING OFFICER. Not unless——

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I want to let people know what is in this motion. What this motion would do, what the motion of the Senator from Nebraska would do is strike the 5-year limit. There will no longer be a time limit on welfare.

Some people would like that, but we voted 87 to 12. You want to end welfare as we know it, in what the President said he campaigned on, put a time limit on welfare. If this motion is not waived, we will not have a time limit on welfare.

The growth formula—we worked very long and hard on trying to find money to be able to give to the States as they grow under the welfare system. All the growth formulas are struck—no more money. Whatever you get in the original formula, you do not get any additional money. We do not take into account any growth in welfare population. They strike it all.

Want to provide for assisted suicide payments? You can do that. Under the original bill, you cannot actually reimburse people who actually tried to go out and help people kill somebody else. Now you can. You can do it because we will strike it under this provision.

There is a laundry list of things here that are just punitive. We had a vote, an overwhelming vote, on doing something about illegitimacy. We talked long and hard about how we wanted to do something on illegitimacy. The bonus for States who reduce their out-of-wedlock birth rate is struck from the welfare. Everyone will come back home and say we care about it and strike it.

So, no time limit on welfare. No growth formula for States —and many of you profit very well on both sides of the aisle from the growth formula put in place—for more money. It is gone.

I just want people to think long and hard. You have basically gutted the welfare bill. There is no way this thing will be able to survive and States will be able to survive under the rules that you will put into effect here.

I hope that we would stand by the 87-12 vote on this welfare and stand by the Senate vote before and vote with the chairman of the Budget Committee on his motion.

The PRESIDING OFFICER. The Senator has 3 minutes and 12 seconds left. The Senator from Nebraska has 4 minutes and 47 seconds left.

Mr. EXON. Mr. President, I yield myself 2 minutes.

I rise to oppose a motion to waive, including a major welfare bill in this massive, multi-page bill under a fast-track procedure. It is a gross violation of the process. It is extremism.

Yes, most of us voted for the welfare bill, as did this Senator. But putting this major policy change in a bill whose sole purpose is to reduce the deficit is abuse. This is just the sort of thing that the Byrd rule was designed to prevent.

I urge my colleagues to reject this motion to waive.

I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. Mr. President, about 2 weeks ago we made a profound mistake in voting the welfare measure we did. A report now surfaces from the White House that says it will instantly plunge 1.1 million children into poverty.

If that is the desire of this body, vote not to waive. You have a chance of redemption.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I voted for the welfare bill, as well.

Let me say I do not hold the same view as the distinguished Senator from New York about the consequences of the bill that we passed here in the Senate.

Obviously, I would like to see a lot more done in welfare reform, and ultimately I think we will do a lot more. If we feel strongly about welfare, it is important enough to separate out from reconciliation. It ought to stand on its own. It ought to be considered policy for policy sake, not a source of revenue, referred out of current welfare programs into other things.

That is what we are doing in the reconciliation package. That is why I support the point of order raised by the ranking member, the Senator from Nebraska.

Mr. DOMENICI. I yield back the balance of our time. I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I voted for the welfare bill, but I did not vote on each of the items, which may be in violation of the Byrd rule on this bill. That is what we are narrowing it down

to at this point. Is it extraneous to the reconciliation bill?

A point of order has been made against certain areas, against certain amendments, as being in violation of the Byrd rule. That is the question to be decided.

The Senator from New Mexico, the distinguished manager, has moved to waive this Byrd rule point of order.

The Senate will vote one way or the other. If the Senate votes to waive the point of order, then there is no point of order. It falls. But if the Senate votes not to waive the point of order, then the Chair will rule on each of the amendments, either en bloc, or, if there are one or two that the Chair disagrees with, he can so state, as he sees it.

I hope the Senate will uphold the Byrd rule, the intention of which was to rule out extraneous matter in reconciliation bills. No matter what your thinking is on the welfare bill—and the point of order has now been made—is that bill extraneous in the context of the interpretations that have been made, the precedents, the definitions, and the rule itself?

I hope the Senate will vote against the motion to waive so that the Chair may rule on the point of order.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, every rule, including the Byrd rule, is made for waiver. It is not a rule that Senators cannot apply any judgment to. And the reason we think this is appropriate is because 87 Senators have already voted for these provisions. I mean, I do not bring a waiver of the Byrd rule here willy-nilly just to defy the very admirable efforts of the Byrd rule to keep a bill rather clean. But I do not think leaving in a welfare bill, which is in this reconciliation bill, provisions that you already voted for with 87 votes, I do not believe that is a trivial matter for those who voted for it, if they are going to vote the opposite way tonight as they choose to strip the welfare bill of provisions they voted for before.

If I have any time remaining, I yield it back.

Mr. CONRAD. Will the Senator yield for a question?

Mr. President, I ask unanimous consent for just a moment for a question of the Senator from New Mexico?

The PRESIDING OFFICER. State the request.

Mr. CONRAD. The question that I would have——

The PRESIDING OFFICER. How much time?

Mr. CONRAD. Thirty seconds.

The PRESIDING OFFICER. Is their objection?

Mr. CONRAD. Does the waiver of the Senator from New Mexico only apply to welfare provisions?

Mr. DOMENICI. That is correct. I have taken out of the large package purposefully only those that apply to welfare and ask that we waive them. Then we will go on to vote and see what we want to do about it.

Mr. CONRAD. Do we have a list of what those provisions are?

Mr. DOMENICI. Yes, we do.

Mr. CONRAD. Could Senators have a copy of that before they vote?

Mr. DOMENICI. Sure. I had 10 or 12 made. I will be happy to give them to you.

The PRESIDING OFFICER. Did the Senator say he wished time to deliver a copy to every Senator before the Senate votes?

Mr. DOMENICI. No. I said if any Senators want to see it, we have it available.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 555 Leg.]

YEAS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

NAYS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

The PRESIDING OFFICER. On this vote, there are 53 yeas, 46 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Now, if the Senate will be in order.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold for the Chair to state one problem?

Mr. DOLE. The Chair is not going to rule.

The PRESIDING OFFICER. No, but I wish to state that the Chair has been informed that each of these extraneous provisions is subject to a motion to waive. It would be incumbent on the Chair somehow to get an agreement with the Senate how to handle this. We have never handled such a massive list of extraneous provisions before.

The majority leader has suggested a quorum. The clerk will call the roll. There is this problem.

The legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Will Senators please take their seats?

Mr. DOLE. I ask to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think rather than take further time of the Senate tonight, we can knock all the other provisions out in conference with the Byrd rule, the very selective list sent up by the Democrats. We can take care of the other provisions in a conference. They are also subject to the Byrd rule. So, I think rather than do that here this evening, we will take care of those in conference.

Let the Chair rule, en bloc.

The PRESIDING OFFICER. The Chair is prepared to rule pursuant to the general order provisions that were added to the Byrd rule in 1990. And the Chair, on the advice of the Parliamentarian, does rule that of the 49 items listed on extraneous provisions, 46 are well taken, 3 are not.

One is the provision regarding exemption of agriculture and horticultural organizations from unrelated business income tax on associate dues.

The second is the tree assistance program under the Committee on Agriculture.

And the third is the provision of the Commerce Committee dealing with the Spectrum language on page 207.

Those are the three items.

The Chair must advise that after such a ruling any Senator may appeal the ruling of the Chair.

Mr. DASCHLE. Mr. President, just a point of inquiry.

If this material would be incorporated in the conference report, when it comes back would it be subject to the same point of order?

The PRESIDING OFFICER. The Chair is advised it would be.

Mr. DASCHLE. I thank the Chair.

Mr. DOMENICI. Did you rule?

The PRESIDING OFFICER. The Chair ruled that 46 items listed on the extraneous provisions are subject to the Byrd rule. Those items are individually appealable.

The clerk will enter in the RECORD those items presented to the Chair and those that were ruled upon pursuant to the advice of the Parliamentarian. The extraneous provisions are as follows:

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
		TITLE I.—AGRICULTURE	
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate.	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustments to prorate payments to farmers if deficit targets aren't met.	313(b)(1)(A)	No budgetary impact.
		TITLE II.—ARMED SERVICES	
Sec 2001	Sale of Naval Petroleum Reserves	313(b)(1)(E)	The sale of Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421a., and the sale of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421b., produce a loss of offsetting receipts in the outyears that is not offset within the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
		TITLE III.—BANKING AND URBAN AFFAIRS	
3002	Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate).
		TITLE IV.—COMMERCE, SCIENCE, AND TRANSPORTATION	
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate).
		TITLE V.—ENERGY AND NATURAL RESOURCES	
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the state of California for the purpose of creating a low-level radioactive waste site.
Park K:			
5920	Radio and TV Site Communication Fees	Byrd 313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by the level beginning in 1996.
Subtitle F, Oil and Gas:			
5509	Royalty in Kind	Byrd 313(b)(1)(A)	Non-budgetary. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	Byrd 313(b)(1)(A)	Non budgetary. Requires the Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	Byrd 313(b)(1)(A)	Delegates various auditing responsibilities to the States.
		TITLE VI.—ENVIRONMENT AND PUBLIC WORKS	
Section 6002(c)	Rescission of highway demonstration projects	313(b)(1)(C)	This section is not within EPW's jurisdiction.
		TITLE VII.—FINANCE, SPENDING	
1895A(b)(1)(B)(iii)	Medical savings accounts of the Social Security Act as added by sec. 7001 of the bill.	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
		TITLE VII.—FINANCE, MEDICAID AND WELFARE	
Subtitle B, Medicaid:			
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2122(g)	Authority to Use Portion of Payment for Other Purposes	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows State to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C, Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former State if the family has resided in the current State less than 12 months.
405(b)(1)	No assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(b)	State option to Deny Assistance For Out of Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows States to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
Subtitle D, SSI:			
Chapter 5: 7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the State.
Chapter 6: 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle G, Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the U.S., and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X.—LABOR AND HUMAN RESOURCES	
§ 10002(c) (1) "(a)(2)(C)"	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1)"(a)(1)(A)", therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10003(d)	Loan Terms & Conditions. Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
		TITLE XII.—FINANCE	
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12705	Provides exceptions to the notification requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12874	Reduces insurance premiums to reachback companies	313(b)(1)(D)	Merely incidental.
12131b	Exempts Simple retirement from ERISA	313(b)(1)(A), 313(b)(1)(C)	No budgetary impact. Jurisdiction of Labor Committee.
12202d	Medicare Consumer Protection Act—regulation of health care insurance duplication.	313(b)(1)(A), 313(b)(1)(D)	No budgetary impact. Merely incidental.

Mrs. MURRAY. President, we have been debating this budget reconciliation for several days now, and I must say it looks no better now than it did when we were debating the budget resolution 5 months ago. In fact, its details are more troubling than I could have imagined, and, not surprisingly, the concern in my home State is much greater than I ever predicted.

What concerns me most is this budget seems to have no core values or principles that mean anything to American families. Its principles seem to be program cuts for the sake of program cuts, and tax cuts for the sake of tax cuts, with little regard for the consequences. I cannot understand the philosophy that prevails here that we have to somehow scorch the Earth in order to balance the budget.

Mr. President, I, too, want to balance this Nation's budget. In fact, I am proud to say I supported the 1993 budget package. That plan has this Nation on the right track; since its passage, our annual deficits have declined in each consecutive year. Earlier in this debate, I supported a balanced budget proposal put forth by my colleague from North Dakota, Senator CONRAD. His plan would have balanced our Nation's deficit in a fair and equitable manner. It would have maintained a commitment to education, health care and retirees. It would have brought our spending in line with our national priorities, and it would have postponed the tax breaks until we can afford them. It was a responsible and realistic alternative; most importantly, it had core values and principles that are important to every citizen in this country.

And, I, too, want to reduce taxes. Believe me, I know what it takes to raise a family, balance the family books and pay taxes. I know how badly my friends and neighbors want tax relief, and I understand how difficult it can be for families to cope with their tax burdens. I also know how expensive it is for small, family-owned businesses to keep their businesses in the family, and I believe targeted estate tax relief is one example of good tax reform; as is allowing first-time homebuyers to make tax-free IRA withdrawals for the purchase of a new home.

But, there is a right way and there is a wrong way to balance the budget, and the plan before us balances our budget the wrong way. We cannot afford to balance this Nation's budget on the backs of our children and the elderly, so that those who are already better off can put more cash in their checking accounts. We cannot afford to give tax breaks to people who don't need them, and then increase taxes on the working poor and health insurance on the elderly.

It is interesting to note that many of my colleagues argue on behalf of this budget package by claiming it will benefit our children and grandchildren in the long run. They claim we will give our children a better economy and lower interest rates tomorrow by balancing the budget today. They fail to note that this plan cuts our investments in the future to do so; programs like head Start and WIC and college loans and AmeriCorps.

I ask, what good will lower interest rates do for my children and grandchildren if we reduce their access to higher education and vocational training, ultimately limiting their ability to acquire the skills they will need to find a family wage job?

Moreover, the proponents argue these tax breaks will enable families to save more for the future. However, current estimates reveal that these tax breaks will increase our Nation's debt by roughly $93 billion. That's $93 billion our children and grandchildren will be paying back through higher taxes later. This sounds like the 1980's all over again.

It is imperative that we understand how this budget plan really impacts our children and families. How does it impact average Americans? Does this budget provide hope, or does it tell hardworking Americans they're on their own? Does it provide security and safety for our children and elderly, or does it lead to uncertainty and anxiousness? These are just a few of the important questions I considered when looking at this budget reconciliation. We should be providing hope for the families that are struggling to pay their rent, feed their children and care for their elderly parents. Instead, we are showing these families and their children that the only way to address these difficult issues is to cut the heart out of what they need to survive—education, health care and good jobs.

Last month, I held a forum back in Washington State to talk about the varied issues surrounding Medicare. I expected one or two dozen to attend. Instead, over 500 people showed up to express their views. people are concerned. They are anxious, and not quite certain what a $270 billion Medicare cut means to them. How much more money will be taken out of their Social Security check each month? And what are seniors on a fixed income going to get for their sacrifice? I hope it is more than a tax break for somebody else. This budget is not providing certainty or hope. My constituents see difficult times ahead. They are wondering how they will pay for health care.

And then there's Medicaid. This program serves the elderly in nursing homes, the adult disabled, pregnant women, and children—the most vulnerable in our society, and the working families that support them and care for them every day. This budget will take $187 billion out of Medicaid, do away with the standards of care, block grant the program, and let States decide who won't have their medical costs covered.

The fears that working families have about the Medicaid cuts can best be summed up by a letter I recently received from a worried mother:

> What will happen to our family when my mother, who has Alzheimer's disease and lives with us, has no more funds and we can no longer care for her at home? My children's education depends on both my husband and me working. If one of us becomes unemployed or must take on full-time care taking responsibilities, we risk grave financial consequences for all of us.

The lack of social priorities isn't the only problem in this budget. It fundamentally stalls the best economic development initiatives this country has in order to compete in the global marketplace.

There are over 30,000 Boeing employees in my home State on strike as we speak. There No. 1 issue is job security. The global economy and increased competition has made these employees, and many others like them, uncertain about the future. They increasingly look to us for support. They want to know what the Federal Government will do to help them compete in the global marketplace.

This budget provides no security or hope. Instead, it proposes deep cuts in trade promotion programs and trade adjustment assistance. It demolishes the Commerce Department at a time when Secretary Brown has maximized

its effectiveness on behalf of American businesses. This budget sends the message that the Federal Government will provide no leadership in international competition, and has no role in cultivating good, high-paying jobs that will lead our families into the 21st century.

And what about the tax increases in this budget? This budget says working families do not count in the scope of principles governing this budget.

Many families will see tax increases because of the proposed cuts to the earned income tax credit. We all know how important the EITC is, and we're all aware of the bipartisan support it has received over the years. As President Reagan once said, "this credit is one of the most successful profamily, prowork initiatives ever to come out of Congress." The budget before us will reduce the EITC by $43.5 billion over 7 years. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $522 tax increase in 2005.

The worst aspect of this tax proposal is that it increases taxes on approximately 17 million hard-working Americans while the top 13 percent of income earners will reap 40 percent of the tax breaks. Does this provide security and hope for our low- and middle-income taxpayers? It does not. Reducing the EITC simply will drop many working families into poverty, and make it more difficult for families to take care of their children and parents.

The environment doesn't escape this budget, either.

I am concerned about the impacts this bill will have on public lands and other national assets. For decades, the Congress of the United States has recognized that our public lands and assets are too precious to sell unless their sale is in the best interest of the public. But it appears to be a new day. Today, this committee may vote to sell—or lease—our children's heritage to pay our debts. The leasing of the Arctic National Wildlife Refuge in particular is not an issue of revenues. It's a question of values. It's a question of whether we are willing to trade off open space, parks, wilderness, and wildlife values—the natural legacy for our children—for a short-term payment toward the bills we have accumulated—or worse, for a tax cut for ourselves.

There truly is a right way to balance the budget; a way that provides security and hope and a way that assures average Americans that we are looking out for them. I tried to instill some of this common sense into the budget resolution, and I am pleased the Senate responded to my amendment calling for an appropriate level of Impact Aid funding. I only wish we could have had more cooperation across the board on other education needs like Head Start, School-to-Work, and Safe and Drug Free Schools, and AmeriCorps.

Mr. President, given the fundamental disrespect for families in this budget, I am forced to oppose this reconciliation package. It does not have important core principles, and I'm afraid it is leading toward an America far different from the one I grew up in. I am alarmed at its shortsightedness. I fear it was motivated by a desire to balance the budget by a given date, regardless of the consequences.

This budget leads us down a new road; a road none of us have traveled. It says the Federal Government is no longer responsible for the welfare of its people. But, yet, who will be? Who will rise to the occasion? Who will pick up the slack? None of us know, but each of us should be prepared. Prepared, because this budget is calling each of us to be more vigilant, more aware of the needs of our families and neighbors, more willing to pay for the health care needs of our parents, children, and friends. Those of us in this room may be able to pick up the slack, but many in our home States will be hard pressed to meet this challenge.

This budget is not good public policy. It is not why I was elected, and it's certainly not what the families in Washington State want.

Mr. HOLLINGS. Mr. President, once again, we are lying to the American people. Instead of a serious attempt to get our fiscal house in order, the reconciliation bill that we are now considering is little more than a political document. It is more about getting a Republican in the White House than getting rid of red ink. The American people will not be fooled. The Republican reconciliation bill does not balance the budget—it merely front loads goodies such as the tax cuts and back loads all the tough decisions. Mr. President, I ask unanimous consent that two tables that I have prepared exposing the realities of the GOP budget be included in the RECORD at this time.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

"Here We Go Again": Senator Ernest F. Hollings

[In billions of dollars]

1995 CBO outlays	1,530
1996 CBO outlays	1,583
Increased spending	+53

GOP "SOLID," "NO SMOKE AND MIRRORS" BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	1,583	1,355	−228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

DEBT (1 OFF CBO'S APRIL BASELINE)

[In billions of dollars]

	National debt	Interest costs
1995	4,927.0	336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0
	1996	2002
[1]Debt includes (off CBO's August-baseline):		
1. Owed to the trust funds	1,361.8	2,355.7
2. Owed to Government accts	81.9	(2)
3. Owed to additional borrowing	3,794.3	4,372.7
[Note: No "unified" debt; just total debt]	5,238.0	6,728.4
"Paper" Balancing:		
1. By borrowing and increasing debt (1995–2002)—Includes $636 billion "embezzlement" of the Social Security Trust Fund		1,801.0
2. Smoke and Mirrors		

[2]Included above.

[In billions of dollars]

	Outlays	Revenues
2002 CBO BASELINE BUDGET	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
[1996 cuts, $45 B] spending reductions (in 2002)		−347
Using SS Trust Fund		−115
Total reductions (in 2002)		−462
+ Increased Borrowing from tax cut		−93
Grand total		−555

Promised balanced budgets

[In billions of dollars]

1981 budget	[1]0
1985 GRH budget	[2]0
1990 budget	[3]20.5

[1]By fiscal year 1984.
[2]By fiscal year 1991.
[3]By fiscal year 1995.

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS—Continued

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−331.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports

[In billions of dollars]

	Year 2002
1996 budget:	
Kasich Conf. Report, p. 3 [Deficit]	−108
1996 budget outlays (CBO est.)	1,583.0
1995 budget outlays	1,530.0
Increased spending	+53.0

[In billions of dollars]

	Outlays	Revenues
CBO baseline assuming budget resolution	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
3. Using SS Trust Fund (in 2002)		−115
Total reductions (in 2002)		−462

ENERGY PROVISIONS

Mr. CRAIG. Mr. President, as a member of the Energy and Natural Resources Committee. I am pleased the distinguished chairman. Mr. MURKOWSKI, has agreed to participate in a colloquy with me and my colleague from Idaho, Senator KEMPTHORNE, concerning the energy provisions of S. 1357. Has the chairman reviewed our proposed amendment concerning aircraft services for the Department of the Interior?

Mr. MURKOWSKI. Mr. President, I have reviewed the amendment submitted by the Senators from Idaho, and it reads as follows:

On page 395, line 24, after "shall" insert ", unless it would be more cost-effective for the Department to use government-owned and operated aircraft,".

On page 396, lines 8 and 9, after "suppression" insert "and those that it would be more cost effective to retain under subsection (a).".

Mr. KEMPTHORNE. As the chairman knows, the Energy provisions of S. 1357 would change Department of the Interior practices relating to aircraft services by requiring the Secretary to sell all DOI aircraft and related equipment and facilities—except those whose primary purpose is fire suppression—and instead contract necessary aircraft services from private entities. Am I correct that this provision is targeted at saving tax dollars and stopping Government waste?

Mr. MURKOWSKI. The Senator is correct.

Mr. CRAIG. Mr. President, an independent study of the Bureau of Reclamation's Government-owned, Government-operated aircraft service in Boise, ID, found that it saved more tax dollars than other options, including contracting out. Would the chairman agree that the committee did not intend to eliminate truly cost-effective programs that happened to be Government-owned and operated, such as that of the Bureau of Reclamation in Idaho?

Mr. MURKOWSKI. The Senator is correct. Let me assure the Senators from Idaho that we are committed to achieving the best and fairest deal for American taxpayers. We will work in conference to further clarify the changes in S. 1357 to address the concerns of my colleagues from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the chairman for making a clarification that I believe will serve the best interests of taxpayers and the efficient delivery of Government services.

Mr. CRAIG. Mr. President, I also thank my chairman for accommodating our concerns while preserving the fairness and cost savings of the Energy Committee's provisions.

Mr. LIEBERMAN. Mr. President, I am pleased that this bill contains the essential elements of S. 959, the Capital Formation Act of 1995.

That bill, which I cosponsored with Senator HATCH, had over 40 cosponsors.

I am pleased that the bill before us contains a broad-based capital gains tax cut as well as a targeted provision which provides a sweetened incentive to invest in small businesses. I would have liked it if the real estate loss provision had been included by the Senate Finance Committee and I intend to work to see that that provision is included in conference.

I think it is important to understand that the benefits of a capital gains cut are not limited to the wealthy. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan has a state in this debate. We are talking about millions and millions of American families.

Unlike most other industrialized nations, we stifle savings and investment by overtaxing that savings and investment.

This capital gains bill rewards those who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses, and hire more workers.

Of course, people who are wealthy can benefit from this proposal capital gains cut but only because they are willing to put their money in places where that money will create wealth.

I would like to close with a quote from this year's Nobel Prize winner in economics, Robert Lucas. He said, and I quote. "When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all." Professor Lucas goes on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

I could not agree more on the need to increase available capital and I would invite anyone who does not think we have a problem with available capital to visit any of the thousands of economically distressed urban and rural countries across this country. While the capital gains provision before us reduces, but does not eliminate the tax on capital gains as Professor Lucas would prefer. I hope that you will join in supporting this provision.

AMENDMENT NO. 2985

Mr. BAUCUS. Mr. President, I voted for the resolution offered by the senior Senator from Pennsylvania which expresses the sense of the Senate that this body should enact a flat tax.

Our current Tax Code is complicated and almost incomprehensible to many of our citizens who must comply with its provisions.

It is high time that we simplify the Tax Code. Simplification should and must be on the front burner.

We need to consider a flat tax in our search for simplification. But, whatever we do, we must not abandon fundamental fairness and progressivity.

A number of questions remain to be answered with respect to the flat tax. What will be the impact of disallowing the mortgage interest deduction or the charitable deduction? If companies can no longer deduct their contributions to employee pension plans or health care plans—will they continue to make those contributions?

There are a lot of questions that need to be answered about a flat tax. But it does have one thing going for it. It has to be simpler than our current code.

As we develop an alternative to the current tax structure, we want to keep an eye on simplicity and fairness.

We need an alternative to our current Tax Code. This sense-of-the-Senate resolution starts us on our way to structuring a simplified tax system.

ENHANCED ENTERPRISE ZONE

Mr. LIEBERMAN. Mr. President, I had intended to offer an amendment with Senator ABRAHAM to supercharge the enterprise communities and empowerment zones we created in 1993

This amendment builds on S. 1252, the Enhanced Enterprise Zone Act of 1995, which I have introduced with Senator ABRAHAM. Our effort has been very bipartisan—to date Senators SANTORUM, MOSELEY-BRAUN, DEWINE, BREAUX, and FRIST have all agreed to sign on as cosponsors of 1252.

Across this country, there are differing views on the state of race relations, affirmative action, and minority set-aside programs like the 8(a) program. Racial divisions in this country have been highlighted by the O.J. Simpson trial and to some extent, I believe, healed by the message that came out of the Million Man March.

The differences across America on issues like affirmative action and 8(a) also exist among Members of the U.S. Senate. That being said, I believe that each and every Member of the Senate believes the following: that regardless of what we each believe we should do about the racial divisions in this country, what to do about affirmative action, and what to do about minority set-aside programs, we all believe that not enough is being done to help those people who live and work in and want to start business in the economically distressed urban and rural areas of this country. Any response to the economic distress in urban and rural areas which does not include a mechanism to attract businesses and jobs back to these areas is a response that is destined for failure.

Last week the Senate Small Business Committee held a hearing on S. 1252 and former Housing Secretary Jack Kemp had this to say:

> The train wreck is not so much the inability to reconcile the differences between the House and the Senate over the budget . . . The real train wreck is what those 400,000 men were saying on the Mall a few days ago: that there are not enough jobs in America. We are not creating enough opportunities for people to become entrepreneurs, to become owners, to become homeowners, to become business owners. To get jobs not only as truck drivers, but someday to own the truck and maybe start a little trucking company.

We took a step toward identifying and helping these areas of economic distress by passing the Empowerment Zone and Enterprise Communities Act in 1993 with much-needed help from this President. With the passage of that legislation, Congress recognized something that our States have acknowledged for many years: Government loses the war on poverty when it fights alone. What we really need to do is figure out a way to pull the people and the places with little or no stake in our economic system, into our system.

The 1993 legislation was a fundamental change in urban policy. It was a recognition that American business can and must play a role in revitalizing poor neighborhoods.

The 1993 legislation was a critical step in the right direction. But we need to go further, particularly in helping the existing 94 enterprise communities. This amendment is designed to supercharge these zones. We propose to add tax incentives and other Federal assistance to these zones with an eye toward the creation of economic opportunities for the urban and rural poor.

Very briefly, this amendment provides a zero capital gains tax on the sale of any qualified zone stock, business property, or partnership interest that has been held for at least 5 years within an EZ or EC; it allows individuals to deduct the purchase of qualified enterprise zone stock from their incomes—up to $100,000 in 1 year and $500,000 in their lifetime and it allows businesses to double the maximum allowable expensing for purchases of plant and equipment in enterprise zones.

This amendment also includes a modified version of a proposal which Senator HUTCHISON has been working on to provide a limited tax credit to businesses to help defray the cost of construction, expansion, and renovation. While revenue constraints have forced us to scale back that proposal we hope it will work so well that we will want to expand it in the future.

A third initiative embraced by this package is low-income home ownership and residential management of public housing. Jack Kemp has been instrumental in pressing us to make this happen.

Setting down a stake in the system has been out of reach for the poorest among us for far too long. We believe this amendment will create opportunity for those who work hard, ownership opportunities for those who want to own property and support for those families who need it.

Last week, the New York Times carried a story about Mr. Lavale Thomas, a former Green Bay Packer running back and current black entrepreneur, speaking to a group of high school students in Washington, DC. And here are the questions the students asked Thomas: "How did you get a loan? Was it harder for a black man to get banks to lend money than a white man? Would blacks buy from other blacks? What did he give back to the community?"

These are great questions for kids to be asking. They all get at the issue of, "How do I become part of the system?" This amendment is designed to make it easier for these students to become part of the system and to build a better future for themselves.

While we will not be offering this amendment today, I hope my colleagues will join me in supporting much-needed help for our economically distressed areas by supporting S. 1252.

NURSING HOME STANDARDS

Mr. BAUCUS. Mr. President, I voted yes today on the Cohen-Pryor amendment to reinstate Federal nursing home standards. I did so in part because the so-called Finance Committee manager's amendment, which included a provision on nursing home standards, was not completed and available at the time of the vote on Cohen-Pryor. The language in the manager's amendment may be preferable over Cohen-Pryor. But, because the amendment was not available for review, I was not able to compare the language of Cohen-Pryor with the manager's amendment to see which is the better version for seniors and nursing homes in Montana.

My vote on Cohen-Pryor in no way means that I favor the Cohen-Pryor amendment over the nursing home provisions in the manager's amendment, which the Senate hopefully will be able to review later today.

Mr. LIEBERMAN. Mr. President, I would like to take a moment to talk about a proposal I have been working on to make the child tax credit better. This proposal, called Kid$ave, would do much to address a number of the fundamental problems we face today as well as the problems our children will face in the future. I had hoped to offer this proposals as an amendment to the bill before us but I am not convinced there is adequate time in this process to give this proposal a thorough airing. For this reason, I would like to outline this proposal and ask that the conferees on this bill review this proposal in conference.

Kid$ave would transform the $500 middle-class tax credit being considered by the Finance Committee into a long-term retirement savings account. In addition to providing for the economic security of the next generation, the proposal would buttress savings and investment for the economic security of this generation.

Kid$ave allows parents to set aside an annual $500 credit in an IRA in their child's name. The tax-deferred account would be governed by IRA rules, with

one exception: children would be allowed to take a 10-year loan against this money for their higher education. Thanks to the wonders of compound interest. $500 a year set aside from birth to age 18 would, at 10 percent interest a year, grow to $1.3 million by the time the child reached age 59½, the age at which IRA funds can start to be withdrawn with no penalty.

One of our greatest challenges is how to create economic opportunity and wealth for the working families of this country. I believe Kid$ave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

That is good news for the future. But Kid$ave is good news for the present, as well. Kid$ave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. When government deficits are factored in, U.S. net national savings falls to 2.07 percent. When our historic trade deficits are added to our plummeting savings rates, the result is an immense disinvestment in our economic future.

While the Social Security trust fund is locked into Federal securities, Kid$ave would create a savings pool that would soon be the largest in the country, available for investment directly in our economy. It would deal directly with our national savings problem by assuring a long term capital source for economic growth and job creation. In other words, Kid$ave can help children when they retire, and it can help them find work until they retire.

The proposal speaks to the problems we will face from changing national demographics. Because the baby boom is such a large population group, we will be imposing a vast financial burden on our children's generation to fund upcoming social security, pension and health care obligations, jeopardizing the long term availability of those programs to the following generations of Americans. This will create what Professor Rudy Dornbusch of MIT calls a true crunch in world capital markets, since we share that demographics problem with our industrial competitors in Europe and Asia. That capital shortage—which means major government and private sector borrowing to meet social and pension obligations and resulting sky high interest rates—will have serious ramifications for future economic growth unless we act now to head it off. The best course to take is to encourage a large buildup in private savings rates. Kid$ave tackles that problem head on.

One additional advantage of Kid$ave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. The ethic of thriftiness seems to have been lost in recent decades, replaced by a credit car mentality. We would compound our problems if we pass such bad habits on to future generations. Kid$ave can help us turn the tide of indebtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield incalculable dividends for our nation down the road.

I would like to offer Kid$ave to all children in America. But I understand that revenue targets may require limits on who receives the credit, at least at the outset. I also understand that the Senate is divided between those who would like to cut taxes for middle-class families now and those who would prefer to balance the budget first. I believe Kid$ave can bridge that divide because it is a better kind of tax cut, one that helps us address the Nation's savings and investment crisis even as it provides tax relief.

But best of all, unlike any other proposal on the table, Kid$ave gives our children a tangible, financial head start on the rest of their lives.

In closing, let me say that whether or not you believe a family tax cut is a good idea at this time, this is an idea that improves on that credit. Last week's Baltimore Sun carried an article coauthored by an unlikely pair: John Rother of the AARP and Martha Philips of the Concord Coalition As they point out, they do not agree on much, but they do agree that a Kid$ave-like approach to a tax cut makes sense. Mr. President, I ask unanimous consent that the text of their article be printed in the RECORD and I would encourage my colleagues to take a close look at this idea.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 17, 1995]

IF WE MUST HAVE A TAX CREDIT FOR CHILDREN, DO IT THIS WAY

(By Martha Phillips and John Rother)

WASHINGTON.—You can probably count on half the fingers of one hand the number of times recently that the Concord Coalition, which works for a balanced budget, and the American Association of Retired Persons, which advocates for the elderly, have been on the same side of a public-policy battle. The current debate over the child tax credit is one of those rare instances of common ground.

We are dismayed at the prospect of enacting an unnecessary and large tax cut at this time—even one benignly labeled a "child tax credit." A large tax cut only makes the job of reducing the deficit that much tougher and leads to deeper program cuts than otherwise would be necessary, including cuts in programs that help children. The economy is not faltering, so there is little justification for stimulating it by pumping another $500 a year per child into consumer spending. Over the long term, the economy needs more savings, which is the chief rationale for balancing the budget in the first place.

Congress and the president nevertheless have signed on to the child tax credit notion, so some version seems likely to be enacted. If there is to be a new children's tax credit, we think an idea that Senators Bob Kerrey and Joe Lieberman and several others have been working on is much better than anything else we have seen.

Although the specific details remain to be worked out, their central idea is simple. Allow a $500 tax-refundable credit for children under age 18 only if the money is invested in qualified retirement accounts for that child's old-age security. Funds in the accounts would not be taxed until they were withdrawn by the child at retirement age.

If the child saves the $500 credit every year from birth for 18 years, there would be a retirement nest egg of $9,000, plus another $4,000 to $16,000 in compounded earnings by the time the child reached age 18. That's nice, but it gets much better. Over every 40-year period since the Great Depression, diversified equity funds have generated returns of somewhere between 6 percent and 10 percent. Even if another penny were never added to the account after age 18, by the time the child reached age 65, the account would be worth a quarter of a million dollars at a 6 percent real rate of return, and three quarters of a million dollars at 8 percent. Leaving the initial $9,000 untouched until age 70 would result in $1.1 million at an average 8 percent return.

These savings would be available to fuel long-term economic growth and could help provide not only future jobs but an improving standard of living for today's children when they are grown. The impressive results of compound earnings over 65 or 70 years would help assure old-age economic security for a generation whose prospects today appear uncertain. Since private pensions today cover fewer than half of all workers, and since economic surveys show most households with inadequate levels of private retirement savings, it is clear that we need a new approach. The income from these individually-owned retirement savings would permit everyone in future generations to supplement Social Security benefits, as originally intended.

In order to minimize unnecessary risk and overhead, these retirement accounts could be administered in the same way as the federal-employee retirement-savings program. There could be a wide range of investment options combined with the efficiencies and safety of large pools of investment funds.

There will inevitably be pressure to permit non-retirement withdrawals from such accounts. Withdrawals for education or health-care needs may very well be in the child's best long-term interests, but any exceptions permitting early withdrawals must be narrow. The full retirement-income benefit to the individual will be at risk for early withdrawal, and one exception leads to pressures for another, undermining the long-term benefit of this approach.

A PHASE-OUT FOR THE RICH

There is no need, of course, to give a $500-per-child contribution to children whose parents can already provide for their futures. So the tax credit should be phased out for higher-income families with the option for those parents to contribute $500 yearly on an after-tax basis.

The intangible benefits of this approach may be hard to measure, but may ultimately be more important. Children who today see little prospect for their future will have a tangible stake in thinking longer term. The fact that these accounts exist in their names and are growing over time will reinforce the importance of other types of deferred-gratification behavior. We shouldn't discount the

impact that such accounts will have on our children, even though they cannot use them immediately.

Any legislative proposal must be evaluated in context as part of a budget package. We need to be especially sensitive to the impact of proposed spending reductions and other tax changes on programs for children, working families and vulnerable seniors. Again, our organizations do not think we should be considering major tax cuts at this point. But if Congress is determined to enact a tax cut, we think it should consider this proposal first. It's good for our children, for the economy and for the long-term needs of future retirement-age Americans.

The concept that Senators Kerrey, Lieberman and others are working on hasn't been introduced as legislation, and we may well disagree with the particulars they finally devise. But at bottom, the general proposal remains a very compelling option. Properly structured, the children's saving credit offers a way to leave a legacy of savings, responsibility and security to Americans of all ages and income levels.

STOP THE BILLION DOLLAR GOLDEN GIVEAWAYS

Mr. BIDEN. Mr. President, the reconciliation bill promises to cut corporate welfare, save taxpayers' money and balance the Federal budget. Yet, tucked away, deep in the more than 2,000 pages of the bill, is a golden giveaway of billions of taxpayers' dollars to a powerful special interest lobby.

Initially passed to encourage settlement of the West, the anachronistic 1872 mining law enables gigantic mining interests—many of which are foreign-owned—to purchase the right to mine Federal land for as little as $5 per acre. Literally, for the price of a McDonalds value meal you can buy an acre of Federal land, loaded with gold, silver, platinum and palladium. If this was not enough of a ripoff, the law does not require mining concerns to pay any royalties to American taxpayers for these minerals, an annual loss of roughly $100 million. The net effect of this law is simple: Foreign mining companies get the gold, and American taxpayers get the shaft.

The sham reform contained in the bill does little to change the current situation. Though the bill requires that fair market value be paid, it only applies this standard to the surface of, what is often times, barren desert land. No consideration is given to the minerals, to the gold, silver and platinum, which are buried underneath the ground. It sounds good on its face—paying fair market value—but this alleged reform is nothing more than face-saving.

Our conservative colleagues argue endlessly that we need to run the Federal Government, more like a business. But how could any business survive, even for a day, by opening its warehouse doors and giving away its products?

On top of these fraudulent prospective changes, the bill's grand fathering provisions guarantee the status quo for over 200 claims currently pending with the Interior Department. These applications, involving over 130,000 acres of public land, 18 national parks, and more than $15 billion in precious minerals, would be granted without the rightful payment to the taxpayers who own the land. Again, billions of taxpayers' money is given away, just handed over due to this antiquated law.

Just last month, Secretary of the Interior Babbitt was forced to sign away over 100 acres of land, containing 1 billion dollars' worth of minerals to a Danish mining conglomerate which paid an embarrassing $275—Federal couch change. This century-old practice has become eerily reminiscent of the Teapot Dome scandal during the 1920's.

Unlike farmers and ranches who have a vested interest in preserving their land, miners have virtually no stake in using the land in an environmentally sound manner. After the gold is taken, the shaft is plugged, and the company abandons the land, often times we are left with dangerous, toxic abandoned mines, which require millions of taxpayers' dollars to clean up. In fact, the Superfund national priority list of hazardous waste sites contains 59 properties associated with mining.

The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans and caused them to lose faith in Government's ability to improve the lives of ordinary people. It ought to be rejected: The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better.

EITC

Mr. LIEBERMAN. Mr. President, I rise with a few thoughts on this bill overall, and on the cuts we are contemplating in the earned income tax credit [EITC] in particular.

This bill has a lot to recommend it. It provides incentives in the tax code for positive goals. The super IRA provisions will encourage savings. That is a constructive step forward. The capital gains piece will encourage people to put money where it will create wealth—that is to say it will encourage investment. While I've supported a middle-class tax credit, I think we could have made the credit even better by giving it to parents who set up retirement accounts for the kids. Those accounts would be governed by IRA rules with one exception—children would be allowed to take a 10-year loan against their account for higher education. And I'm not enthusiastic about what this bill does to Medicare—not because this bill does too much, but because it does too little to change the built-in flaws in this program.

Overall, I'm encouraged by what this bill does to provide incentives for savings and investment and the creation of jobs and capital. However, in terms of incentives it falls woefully short in one area. That is in the dramatic and misguided cuts this bill makes in the earned income tax credit [EITC].

Let me tell you why I like the EITC and why I think that the Republican Party should embrace, not eviscerate this program. Put simply, the EITC provides an incentive to work. It promotes work over welfare and it does so through the Tax Code, not through a new social service program run by bureaucrats in Washington. That is something both parties should be able to support and indeed, in the past, both supported the EITC.

President Reagan championed this program as the "best antipoverty, the best pro-family, the best job-creation measure to come out of Congress." Last week in testimony before the Senate Small Business Committee, former HUD Secretary Kemp cautioned against cutting back too far on the EITC "because that is a tax increase on low income workers and the poor which is unconscionable at this time * * *"

I am particularly troubled that the Senate has cut $43 billion out of this program over 7 years—this figure is nearly doublt what the House has cut from the EITC in their reconciliation package. And this cut of $43 billion is a dramatic increase in the cuts this Chamber agreed on during consideration of the budget resolution just 5 months ago. That resolution assumed $21 billion in EITC cuts. I found that proposed cut distressing. We are now talking about nearly tripling that cut. I find that downright alarming.

Here are the people we will hurt the most with these proposals: Workers without children who receive the EITC. These are workers with incomes under $10,000; EITC families with one child and incomes above $12,000 and; EITC families with two or more children regardless of how low their income.

In practical terms, about 17 million low- and moderate-income families—including nearly 13 million low-income families with children will feel the impact of these changes. In my home State of Connecticut alone, these changes would amount to an average increase of $311 for over 92,000 families. This simply makes no sense. It takes us further away from our goal of encouraging work and self-sufficiency.

Of course we ought to get rid of waste and fraud in this program. I believe the administration has done a commendable job in helping in that effort. But the increase in this program in recent years has been by design not by fraud and deviousness. Congress voted to expand this program in 1986, 1990, and 1993. When the changes we made to the program in 1993 are fully phased in at the end of fiscal year 1996, the EITC will actually grow by very modest rate of 4.5 percent a year.

This program has had bipartisan support because both sides of this aisle have been able to agree that we should use both hands to applaud those who are working to lift themselves out of poverty and then use one of those hands to give them the help and support they deserve.

The Democratic Leadership Council, which I am pleased to chair, has a long history of support for this program. The research and writing arm of the DLC, the Progressive Policy Institute

[PPI] has done a lot of excellent work on the issue. At this point, I ask unanimous consent that an article by Mr. Jeff Hammond on the EITC, which appeared in the September 29 Washington Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 29, 1995]

RELIEF FOR THE HARD-WORKING POOR

(By M. Jeff Hamond)

This year, both House and Senate have proposed reforms to the Earned Income Tax Credit (EITC) with the intent to save money rather than make the program work better. The EITC—which helps millions of low-income working families escape poverty—is an example of Congress targeting the good as well as the bad in its quest to reduce social welfare spending.

This is a program that should not go quietly into the night. Unlike traditional welfare programs, the EITC is based on the principle of reciprocal responsibility: It says that the government is there to help, but only if you give something back or help yourself in the process. Republicans have supported the credit in the past; in fact, its biggest one-year boost occurred under President Reagan, in 1986. Why change now?

Specifically, the EITC assists low-wage workers by providing a wage supplement up to a certain level of earnings, at which the credit reaches a maximum and then begins to phase out. President Clinton's five-year, $21 billion expansion of the EITC, approved in 1993, was designed to guarantee that families with full-time, year-round workers would not live in poverty.

By promoting work over welfare with virtually no overhead costs or added bureaucracy, the EITC provides the foundation for any serious effort at welfare reform. The program could use some fine-tuning, but most of the charges leveled by critics are exaggerated or plainly incorrect.

Rising costs. Some critics of the EITC, most notably Sen. Don Nickles, Oklahoma Republican, depict it as another out-of-control entitlement program, since its costs have grown quickly. "The EITC is the fastest-growing government program, period," Mr. Nickles has said. "It's growing much faster than Medicare or Medicaid."

Detractors conveniently ignore, however, that Congress voted to expand the program in 1986, 1990, and 1993, in part as an alternative to increasing the minimum wage. This is in stark contrast to the major entitlement programs such as Medicare, which automatically grow every year with no congressional action. To depict the EITC as simply another exploding entitlement program is simply wrong.

Waste, Fraud and Abuse. Critics of the EITC claim the program has a fraud rate of 35 to 45 percent, costing taxpayers billions of dollars in fraudulent refunds. This statistic is based on a January 1994 IRS study, and is inaccurate and misleading for several reasons.

First, that statistic is an error rate, not a fraud rate. If a worker claimed the credit but was $1 off—or claimed too little—this was included in the statistic. Many of these inadvertent mistakes are corrected by the IRS. Nearly half of the supposed "fraudulent" claims were unintentional errors of this type.

Second, some taxpayers who claimed the credit in error (i.e., when they did not qualify) may have done so unintentionally, due to the complicated tax laws.

Third, the study was based on 1993 returns. Since than, the IRS has implemented new procedures to cut down on fraud, such as double-checking the Social Security numbers of all dependents claimed. Thus, the fraud and error rate will be much lower for 1994 and future tax years.

Work Disincentive. Some critics assert that the EITC is actually a net work disincentive, because the phase-out of the credit in effect applies an additional 16 to 21 percent tax to earnings within the phase-out range.

It is true that effective marginal tax rates are high in this range, and that the maximum allowable income to be eligible for the credit may be set too high. Nevertheless, recent research shows that the EITC still provides a large net positive work incentive. One recent estimate shows that if market entrants work only 400 hours annually, the expanded credit will increase the labor supply of low-income workers by 20 million hours per year. Since the average EITC recipient worked 1,300 hours in 1993, the final net benefit is probably much larger.

Suggested Reforms. We can get people to move from welfare to work only if work pays, and the EITC ensures that it will. This is why many Republican governors insist that the EITC is an indispensable part of welfare reform. Yet, the program is not perfect. Sensible reforms include:

Adjusting the phase-in and phase-out ranges to maximize the number of families in the former and minimize the number in the latter. These changes will place more families in the work incentive range of the EITC without increasing its total cost. (Shortening the phase-out will increase the marginal tax rate within the range, but it will affect fewer families. Texas Republican Rep. Bill Archer's tax proposal—which passed the Ways and Means Committee last Tuesday—does shorten the phase-out range.)

Implementing further policies designed to cut down on fraud, such as requiring valid Social Security numbers for all applicants to prevent undocumented workers from claiming the credit.

Finally, requiring firms to notify their low-wage workers that the credit can be applied to each paycheck, rather than collected at year's end. Less than one percent of EITC recipients utilize this option. Since firms have an incentive to verify hours worked (or else they will overpay payroll taxes), such a requirement could further reduce fraud.

At a time when phrases like "shared sacrifice" and "welfare-to-work" are wielded on both sides of the isle, the EITC stands as an item that should unite both parties. The program needs some changes, but it has been one of our most successful social policies. If conservatives are serious about promoting work and ensuring that full-time workers escape poverty, they will help improve and preserve this program—not cut it simply to reach a budget target.

Mr. CAMPBELL. Mr. President, this bill includes a measure directing the sale and transfer of the federally owned Collbran Project, located near Grand Junction, Colorado. The provision is similar to S. 1109, which I introduced earlier this year with Senator BROWN.

Since the introduction of this legislation I have worked with the citizens of the Plateau Valley, with Mesa county officials, with various departments of the State of Colorado, and with the local and national staff of the Federal Reclamation, Forest Service, and BLM.

In that process I have agreed to make dozens of changes to the bill; however, at the request of my colleagues on the Energy and Natural Resources Committee I will not take up the Senate's time and will instead have the changes made during conference on the budget bill.

I do want to take a moment to describe the changes to the Collbran bill that I intend to make in conference.

From the start I have wanted to make sure the bill protects the long-standing commitment to provide top quality public recreation at Vega Reservoir. I have worked with the State to make sure that the Federal commitment to make major improvements at Vega is retained, and to provide for State ownership of the recreation facilities and open space at the reservoir.

The Forest Service and BLM wanted to make sure the bill would not affect recreation or any other multiple use of the national forest, and the agencies also wanted to avoid the creation of private inholdings within the Federal lands. In response, the bill will provide for easements to the water facilities, and provide a specific role for the Forest Service in preparing the annual operating plan for the project.

The State asked, and I have agreed, that money contributed by the districts toward the recovery of endangered fish be spent on recovery efforts in Colorado.

Many folks in the Plateau Valley have raised a concern with me that there will be insufficient opportunity for the public to be involved with the operation of the project. I understand this concern, it is legitimate, and I have tried to address it in various ways. The issue is "To what extent will the Ute and Collbran Water Conservancy Districts be publicly accountable in their operation of this Federal water project?"

First, the bill states that "the power component and facilities of the project shall be operated in substantial conformity with the historic operations of the power component and facilities." That will be the law. The language is plain.

Second, the bill requires annual reporting to the Secretaries of the Interior and Agriculture as to the operating plan for the project in the coming year. The purpose of this provision is for full public disclosure of annual operations.

I will amend that provision to increase accountability by requiring full consultation with the Mesa County Commissioners and with the Forest Service in preparation of the annual operating plan. This will allow the public to raise issues through the Commissioners and through the Forest Service and get action on those issues through the annual planning process.

Part of the concern that has been raised involves the extent to which the bill can affect the disposition of water between the Plateau Valley and the Grand Valley, and this is an issue on which I have broadly consulted with state officials and water lawyers. There are several reasons that federal legislation on this point would be unworkable.

First, all changes in water use are subject to state water law and are adjudicated through the state water court process. The water court is charged with protecting the interests of all associated water users when a change in use is considered or requested.

Second, the holding of a water right is a private property right and one in which I frankly would oppose Federal interference.

And third, the Ute and Collbran Water Conservation Districts are publicly accountable organizations created in accordance with Colorado law. Colorado Law includes a number of provisions providing for public accountability, including the ability to elect board members. It would be inappropriate for the Congress to interfere with that structure.

I will, however, amend my bill to prohibit any out of state transaction involving water from this project.

I have appreciated the willingness of citizens and agency staff to work with me on the development of this legislation. I am open minded about making further changes to the bill, in addition to the many that have already been made.

Thank you, Mr. President. I yield the floor.

HORMONAL CANCER DRUGS

Mr. D'AMATO. Mr. President, I rise today to discuss Senator OLYMPIA SNOWE's amendment that I and my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill.

With prostate cancer striking 1 out of every 11 American men and breast cancer attacking 1 out of every 8 American women, we have an obligation to do everything we can to ensure that the best, most effective treatments are available to as many patients as possible.

The amendment expresses the sense of the Senate that Medicare should cover oral hormonal cancer drugs. Oral hormonal drug therapy is critical in treating cancers that have spread beyond the prostate and in treating estrogen-receptor-positive breast cancer tumors. These drugs can play a vital role in the postsurgical treatment of this type of breast and prostate cancer because they help prevent the recurrence of these tumors and improve the quality of life for thousands of cancer patients each year.

In the Omnibus Reconciliation Act of 1993, we directed Medicare to cover some oral cancer drugs. However, the statute requires that those drugs be chemotherapeutic in nature and have been available in injectable or intravenous form. Oral hormonal cancer drugs do not fall within this category. I believe this is an unintended result of a well-intentioned provision.

The result is that Medicare currently discriminates against half of all women afflicted with breast cancer by denying coverage for postsurgical drug treatments to those with estrogen receptor positive tumors. Because estrogen-sensitive tumors are more likely to strike post-menopausal women, this type of cancer disproportionately afflicts Medicare beneficiaries. Denying Medicare coverage for orally administered hormonal therapy is an obvious case of being penny-wise and pound-foolish. Hormonal therapy is a less expensive treatment option when measured against the risk of treating new tumors which can result in the absence of such therapy.

This relatively simple and straightforward amendment puts the Senate on record in support of correcting this oversight from the 1993 reconciliation bill. I believe that the conference report on the 1995 reconciliation bill should include a provision to cover oral cancer drugs used in hormonal therapy. I am glad that the Senate passed this amendment, and I am glad to have been an original cosponsor.

Mr. CAMPBELL. Mr. President, I am delighted to learn the Finance Committee adopted a provision that would allow tax exempt organizations to be eligible to maintain pensions under section 401(k). It is my understanding that tribal governments would be allowed to sponsor 401(k) plans under the budget reconciliation proposal reported by the Finance Committee.

In order to ensure that I am clear that tribal governments would, in fact, be included under this provision I would like to ask the distinguished chairman of the Finance Committee a question to clarify the Finance Committee's budget reconciliation proposal.

Mr. ROTH. I thank Senator CAMPBELL. I would be happy to answer his question.

Mr. CAMPBELL. Is my understanding correct that tribal governments are eligible to sponsor 401(k) plans under the Finance Committee budget reconciliation proposal?

Mr. ROTH. Yes; that is a correct statement.

Mr. CAMPBELL. I note the presence of the chairman of the Indian Affairs Committee, Senator MCCAIN, and ask if he would have any comments.

Mr. MCCAIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification proposal included in the budget reconciliation measure.

I also wish to take this opportunity to thank Chairman ROTH for including language affecting section 403(b) plans in the pension simplification section of the bill that will remove a very difficult problem that arose from a misunderstanding about earlier authority provided to tribal education organizations. Several years ago some tribal governments began to purchase plans provided under section 403(b) of the code and promoted by insurance companies only later to find that such plans were not expressly intended for the use of government employees involved in activities other than education. Those retirement funds, affecting several tribes and the retirement savings of thousands of tribal employees, are now in jeopardy. I introduced S. 1304 to fix this problem. Chairman ROTH included a similar provision in section 12941 of the bill, and I thank him for that.

MFN STATUS FOR CAMBODIA

Mr. MCCAIN. For the past 2 years, I have been involved in an effort to grant most favored nations [MFN] trade status to Cambodia. Today, I intended to accomplish this by offering an amendment identical to the language already approved by the House. The chairman of the Finance Committee, Senator ROTH, has informed me, however, that he would prefer that trade provisions not be included in the reconciliation bill. In deference to his opinion and his responsibility for guiding this bill through the process, I have decided to withhold my amendment.

Mr. ROTH. I thank the Senator from Arizona. I know that this is a very important issue for him. It is among a number of trade issues which must be dealt with by the committee in coming months. The Senator from Arizona has my assurance that the Fiance Committee will take up H.R. 1642—the House-passed bill dealing with this issue—the next time it meets to deal with trade issues, and that I will make every effort to have it reported out favorably.

Mr. MCCAIN. I thank the chairman for his cooperation and for his interest in the issue. Cambodia has come a long way from the dire situation it faced just a few years ago. We can help the Cambodian people overcome the remaining challenges they face by empowering them to help themselves through economic development. This is what makes MFN such an important issue. An economically developed, prosperous Cambodia will be better able to create the foundations for democracy and contribute to the stability of Southeast Asia.

Mr. SMITH. Mr. President, this is a historic moment in the history of our country. Over the past several weeks, we have heard vicious attacks on the balanced budget bill that is before the Senate today. The Republican balanced budget has been called immoral and irresponsible. The American people have been warned of devastating cuts in spending. To the casual observer, it might appear that the sky is about to fall.

The truth is quite different. In fact, the budget before the Senate today is the only chance to save our country from an immoral, irresponsible, and devastating future. We are acting now only because previous Congresses have failed the American people.

At the end of this year, our national debt will exceed $5 trillion. We are adding to the debt at the rate of $9,600 per second. Right now, every man, woman, and child in America is more than $18,000 in debt. The current trends are not sustainable.

Mr. President, our balanced budget plan is not perfect. If there was an easy solution to our fiscal problems, you can rest assured that Congress would have found it along ago. I do not agree with every provision in the bill before the Senate. If I could pick and choose, there are many priorities that I would change. On the balance, however, I think the product is a good one. It gets the job done. To my colleagues who disagree, I would say the following: you can't beat something with nothing. If you do not like our balanced budget, you have an obligation to produce an alternative. President Clinton's plan was recently rejected by the Senate, 96 to 0.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long-term interest rates between 1 and 2 percent. On a typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $676. On a 30-year, $80,000 mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

Mr. President, the Senate bill also provides significant tax relief. I know that many of my colleagues have expressed disdain at the idea of cutting taxes. They find it offensive to let American taxpayers keep more of their hard-earned money. I would ask, is it offensive to provide a $500 per child tax credit? Is it offensive to create a tax credit for adoption expenses? Is it offensive to provide a tax credit for interest paid on a student loan?

I certainly do not think so.

The critics of tax cuts think Members of Congress can spend money better than a family of four in Berlin, NH, or Cleveland, OH, or Atlanta, GA. I find that position arrogant, and I am not alone. As is now well known, the President now regrets his decision to raise taxes. Presumably, the President realized that the Government in Washington has enough tax dollars to spend. Those who oppose the tax cuts contained in the bill before the Senate today should understand this fact: the budget before the Senate today would reduce taxes by $245 billion. It does not even completely refund the Clinton tax increase.

Mr. President, we are witnessing the last gasp of air of big-government, Washington-knows-best liberalism. It may come as a shock to many, but Uncle Sam is not the solution to every problem in America.

I have held a good many town meetings in New Hampshire to talk about the budget, taxes, welfare reform, and Medicare. Often, when I say that Congress intends to balance the budget in 7 years, my constituents ask why we are waiting that long. The danger is not going "too far, too fast," as many would have us believe. The real risk to all Americans is the risk that we will not get the job done.

I urge my colleagues to support this budget. It is bold; it is real, and it stands alone as the only solution to our Nation's fiscal problems. The time for talking is over. The time for acting is now.

USEC PRIVATIZATION

Mr. WARNER. In title V of the bill before the Senate there are provisions that will provide for the privatization of the U.S. Enrichment Corporation. I understand the Energy Committee is also reporting this language out as a substitute to S. 755, a bill originally introduced by Senator DOMENICI to accomplish the same purpose.

Mr. President, I commend Senators DOMENICI, MURKOWSKI, JOHNSTON, FORD, and others for their efforts to produce legislation that balances our country's need for a private uranium enrichment company with a nonproliferation solution that assists Russia in its weapons dismantlement. However, I seek a few clarifications, as well as your assurance, that the language in the reconciliation bill will allow the Russian Federation an opportunity to be able to fulfill its obligations easily with options, perhaps those offered by U.S. private industry to assist where possible.

With regard to section 5007(c) of the reconciliation bill, the exclusion of U.S. Department of Energy facilities from production of highly enriched uranium, I want to urge the U.S. Enrichment Corporation to make use of sector services and facilities prior to making any contractual work agreements with the U.S. Government.

Mr. MURKOWSKI. Mr. President, it is true that our language allows USEC to contract with existing DOE facilities for activities and services other than the production of highly enriched uranium. To the extent that there is a longstanding government policy that the Federal Government not compete for work that the private industry can supply, I agree that the DOE should defer opportunities to the private sector.

Mr. WARNER. I thank the Senator. I wish now for clarification of section 5012(b), regarding Russian HEU. Does this language provide for contingency private industry provisions to assist the Russians in meeting their obligations in the government-to-government agreement of providing the United States with low enriched uranium derived from highly enriched uranium?

Mr. MURKOWSKI. The government-to-government agreement for the 500 metric tons of highly enriched uranium contemplates the participation of the United States private sector and Russian enterprises in implementation of the agreement. Section 5012(b) facilitates this implementation by providing mechanisms for private sector entities to purchase the natural uranium component of LEU derived from Russian HEU, either directly from Russia or in an auction process, in an open and competitive manner. The United States and Russia also have the ability to increase the quantities delivered in any given year and accelerate the delivery schedule of this material to the United States, provided that this material is introduced into the U.S. commercial fuel market in full accordance with this legislation.

Furthermore, neither this legislation nor the government-to-government agreement limits the ability of Russia to sell additional quantities of enriched uranium, in excess of 500 metric tons called for by the government-to-government agreement, to third parties for delivery to the United States, subject to the market restrictions as stated in the bill before us and other applicable law.

Overall, this legislation and its provisions will: First, advance the world's nonproliferation goals; second, provide the Russian Federation immediate hard currency and; third, assist the Russians in meeting future continuing obligations.

Mr. WARNER. My last question. Are there provisions in this bill to allow either the change of executive agent or nominating more than one U.S. executive marketing agent to help facilitate these uranium transactions?

Mr. MURKOWSKI. Our language recognizes and does not change the right of the U.S. Government under the government-to-government agreement to exercise its option of changing the U.S. executive agent or allowing for more than one after consultation with and upon 30 days notice to the Russian Federation.

Mr. WARNER. Again, I commend you on this legislation that will promote the United States and Russia's nonproliferation goals, offer each country an opportunity to use private industry to meet these goals, and present to the world a concerted effort to denuclearize.

Mr. LIEBERMAN. Mr. President, I would like to set the record straight on the need to reform the corporate alternative minimum tax.

What we have under current law is a nightmare for investment for businesses of all sizes. The AMT is not working as Congress intended when it was adopted in 1986. We never intended to so harshly penalize investment in equipment needed to modernize our factories; nor did we intend to force companies that have no profit to borrow money to pay their AMT. Yet this is precisely what current law does to some companies.

There is bipartisan agreement on the need to fix AMT. President Clinton in

1993 recognized the need to fix the AMT and proposed shortening AMT depreciation recovery periods. To date, we have not adopted the President's proposal in full. For this reason, earlier this year, I joined with Democrats and Republican cosponsors of S. 1000, a reasonable piece of legislation, to help correct this antiinvestment tax system.

While I commend the Finance Committee for taking some action on this issue, that action falls short of what ultimately needs to be done. There are two parts to AMT depreciation—method and recovery period. This bill fixes the method of depreciation, but does not do enough for the recovery period. Yet it is the unreasonably long recovery period for most investments under the AMT that creates the severe penalty on investment.

S. 1000 fixes both parts of the AMT depreciation problem and I believe it is the right policy on AMT. I hope in conference and in negotiations with the White House that we can come up with a bill that will truly fix the antiinvestment nature of the AMT depreciation rules. This can be done in a way that preserves the integrity of the tax collection process by not letting truly profitable firms totally escape taxation while at the same time encouraging economic growth and job creation which I believe is essential to an improved standard of living for all Americans.

Mr. CAMPBELL. I would like to confirm with my colleague from Alaska the committee's intent with respect to part E, subpart III of S. 1357, which provides for the sale and transfer of the Collbran project located in western Colorado. This legislation directs the Secretary of the Interior to transfer the Collbran project to the Collbran Conservancy District and Ute Water Conservancy District in the last fiscal quarter of the year 2000 in return for the payment of $12.9 million by the districts to the United States. The transfer to the districts includes the listed facilities and other assets that comprise the Collbran project, but excludes the Vega recreation facilities owned by the United States or the State of Colorado. Several questions have been raised regarding the legislation. First, some have raised a concern that it may include or affect the Plateau Creek pipeline replacement project which has been proposed independently by the Ute Water Conservancy District.

Mr. MURKOWSKI. The Committee carefully defined the scope of the transfer so that this legislation will have no affect on the proposed Plateau Creek pipeline replacement project, which will be subject to all requirements of Federal and State law which would exist if the transfer did not occur.

Mr. CAMPBELL. Another issue that has arisen is regarding the relationship between the legislation and the Endangered Species Act. In particular, questions have been raised regarding the effect of the payment of $600,000 by the districts for use as a part of the Colorado River Endangered Species Fish Recovery Program, and whether a section 7 consultation will be required for the transfer. My understanding of the legislation is that it has no effect on the Endangered Species Act, and that no determination has been made regarding the existence of any obligation or liability of the Collbran project or other existing water supply projects in the Colorado River Basin in Colorado with respect to species listed and critical habitat designated under the Endangered Species Act. In addition, because the transfer is mandatory, and will not involve any change in project operations or additional review or approval by any Federal agency, there is no need for a section 7 consultation on the transfer.

Mr. MURKOWSKI. That is correct. The legislation provides that, as a condition of the mandatory transfer, $600,000 of the total payment of $12.9 million be provided to the U.S. Fish & Wildlife Service for use in the Recovery Implementation Program for the endangered fish apecies in the Upper Colorado River Basin, which is intended to serve as a reasonable and prudent alternative for water depletions from all existing and future water projects in the Colorado River Basin in Colorado. In the event that any such determination is made in the future, and if the Recovery Implementation Program no longer serves its intended purpose, the Collbran project will be treated the same as any other existing, similarly situated nonfederal project in western Colorado, and the districts will be able to claim credit for this contribution to the same extent as any other entities which have made cash contributions to the Recovery Implementation Program.

Mr. CAMPBELL. The transfer of the Collbran project is based on the requirement that the water and power resources produced by the project will continue to be used for the purposes for which the project was authorized for a period of 40 years from the date of enactment of the legislation. This requirement ensures that the transfer will not cause any significant change in project operations or distribution of benefits, and obviates any need for any further study or review of the transfer. However, some have sought assurance that the legislation does not interfere with the district's ability to negotiate a contract with preference power customers in the Salt Lake City Area Integrated projects office of WAPA or their designee for operation and maintenance of the power features of the Collbran project.

Mr. MURKOWSKI. The legislation does not affect the ability of the districts to obtain additional cost savings by contracting with third parties in order to achieve more efficient operation of the power features of the project or for other purposes.

Mr. CAMPBELL. I would also like to confirm my understanding that the transfer renders moot the pending litigation by the Department of Justice regarding water rights for Vega Reservoir.

Mr. MURKOWSKI. That is correct. The pending litigation initiated by the Department of Justice for the purpose of obtaining water rights in the name of the United States for the Collbran project should be dismissed in light of the mandatory requirement for the transfer of the Collbran project to the districts.

Mr. CAMPBELL. Finally, the legislation provides that the Vega recreation facilities be transferred to the State of Colorado at a future date, which includes lands currently owned by the United States in sections 31, 32, and 33 of township 9 south, range 93 west, 6th principal meridian, and sections 4, 5, 6, and 7 of township 10 south, range 93 west, 6th principal meridian. Does the transfer of these facilities to the State include any of Collbran project facilities, and does the transfer of the project provide the districts with any land that could be sold in the future for residential development?

Mr. MURKOWSKI. No, the Collbran project facilities, and the lands upon which they are located, are to be transferred to the districts. However, the lands to be conveyed to the districts do not include the undeveloped lands surrounding Vega Reservoir, as these lands are to be conveyed to the State of Colorado.

Mr. CAMPBELL. I thank my colleague.

TAX CREDIT FOR RESEARCH AND DEVELOPMENT PROJECTS

Mr. HATCH. Mr. President, I rise today to speak in support of a bipartisan effort to extend the tax credit for research and development projects engaged in by American industry. I want to commend the chairman of the Finance Committee for his excellent leadership on this measure because I wholeheartedly believe that this program is critical to the future of our economy. We are the world leader in research and development, and I believe that technology is the engine for economic growth. This measure helps keep our competitive advantage on the world R&D market. The bill before us today extends the R&E tax credit for 20 months, retroactive to July 1, 1995. Ideally, we wanted to extend the credit permanently and thus remove the uncertainty that has characterized the credit in recent years. Unfortunately, due to limited resources, we have had to go with a temporary extension instead. However, this is still a significant step forward, and I am glad to be a part of this effort.

I want to express my concern for the companies engaged in significant research and development activity in the United States that are unable to qualify for the current credit. Several of my colleagues share this concern, and I would now like to engage Senator BAUCUS from Montana and Senator LIEBERMAN from Connecticut on this

point. We support extending the R&E tax credit for another 20 months. We also support providing those companies that currently do not qualify for the R&E credit, and that are engaged in significant R&D activity, with an elective alternative incremental research credit [AIRC], as provided in the House tax bill. I look forward to my colleagues' remarks on this point.

Mr. BAUCUS. Mr. President, research and development keeps us competitive with our foreign trading partners. It supports high wage and high skilled jobs in the United States and enables us to compete in developing products that increase our quality of life. We must support our American industry here at home or face losing our edge in research and development to our foreign trading partners. Other countries offer much more generous R&E tax incentives: for example, Canada has a 20-percent credit for all R&E expenditures: Japan and our European competitors all offer significant tax incentives to encourage research and development activity.

A strong R&E tax credit not only maintains research and development activity here in the United States but it also contributes to the development of high-skilled jobs. It is my understanding that a substantial portion of the R&E credit is comprised of wages and salaries paid to our research employees. We need to continue this trend. In this age of global markets we need a research and development strategy that is competitive and strong. R&D grows our economy, it raises our living standards and develops a high skilled work force.

Mr. LIEBERMAN. Mr. President, I echo my colleagues' sentiments and add that while our current R&E program supports many fine research and development activities, a number of significant R&D investors are ineligible to use this credit under our current law. The alternative incremental credit approved by the House enables those companies to take advantage of this resource, and while I am disappointed that the alternative credit is not part of the package before us today, I hope that the conferees will look kindly on this proposal.

I am concerned that many U.S. companies engaged in high-technology research are unable to stay competitive in the global market due to declining Federal research dollars. By extending the tax credit for 20 months and offering the AIRC program, we can provide our industries with some certainty in helping them plan their research and development strategy.

Mr. HATCH. Mr. president, I hope that our colleague, the chairman of the Senate Finance Committee, shares many of the concerns that we have expressed. I would respectfully ask that he take a careful look at the alternative incremental credit in the House package when the bill goes to conference.

BIPARTISAN CAPITAL GAINS

Mr. LIEBERMAN. Mr. President, I wanted to express my concerns about one provision that the Finance Committee was unable to include in its final tax package. It is a provision that was contained in the bipartisan capital gains legislation that Senator HATCH and I introduced, S. 959. The provision would change current law in ways that would be extremely helpful to families in my region of the country.

Under current law, when an individual or family sells its principal residence for a gain, and for whatever reason, does not reinvest all of the proceeds in another home, any gain from that transaction is generally treated as a capital gain, and is taxed at more favorable capital gains rates. Special rules apply to individuals over age 55. They are permitted to completely exclude from tax up to $125,000 of their gains from sales of their residences. By contrast, if an individual or family sells a personal residence at a loss, that loss is treated as a personal loss, and no part of the loss may be recovered. No capital loss rules for losses on residences are provided under current law. No way presently exists for a family to be made whole from a genuine economic loss.

S. 959, a bipartisan bill that has 45 cosponsors, included a provision to provide some relief to individuals who have experienced these true losses. S. 959 would permit capital loss treatment for loss on the sale of a principal residence. This proposal is fair, because it provides that both losses and gains on sale will be treated as capital, not ordinary.

Until the 1980's, the possibility of suffering a loss on the sale of a principal residence was all but unthinkable. Then, starting with the oil price shocks of the early 1980's, we have experienced a series of regional economic slowdowns and recessions that have caused the prices of housing to fall. These occurred first in the Southwest, and more recently in California and New England.

Several things—all bad—can happen when the value of a residence falls. In southern California and in New England in the early 1990's, homeowners began to experience what came to be known as the upside-down mortgage. Homeowners found that the value of their homes had fallen so much that the home was worth less than the outstanding debt of the mortgage. Thus, if the homeowners were forced to sell, they would come out of the deal actually owing their lender more money than they had from the sale. Then, if the banker forgave some portion of the debt, the homeowners actually owned income tax on the transaction. In 1992, it was estimated that 41 percent of the sales in California were in this upside down position. The problem of upside down mortgages in resolving itself in California, but it is a disaster for people caught in that bind. In New England, the downward trend in home values continues; thus, the problem of upside down mortgages persists.

In my home State of Connecticut, many areas have experienced steep price declines since 1989. For example, the median sales price for an existing home in Hartford was $165,900 in 1989. The median home price has since declined to $133,400. The purchaser of a median priced home in Hartford, in 1989, has lost, on average $32,500 or over 24 percent of their home value over a 5-year period. This represent a loss of roughly $6,500 per year.

Similarly, the median purchase price for an existing home in the New Haven-Meriden Metropolitan Area was $163,400 in 1989. The median home price in New Haven-Meriden metro areas has since declined to $139,600. The purchaser of a median priced home in New Haven-Meriden, in 1989 would have lost $23,800 or slightly more than 17 percent of their home value by 1994. This represents an average annual decline in home equity of $4,760.

If people sell their homes at a loss, they have suffered a true economic loss. Moreover, it is a loss that may represent the loss of their biggest source of savings. People who experience a loss on the sale of their home are often wiped out financially. The provision that Senator HATCH and I included in S. 959 permits capital loss treatment for these painful situations. Because of the mechanical operation of the capital loss rules, it may take many years for a family to recoup the true losses they have experienced. Still, the relief in S. 959 is only partial relief for some individuals. Because of the serious impact on families of these losses, it is only fair that we provide at least the capital loss relief as a form of rough justice so that these families can have some relief from the true losses they have incurred.

This important provision is contained in the House bill. It is my hope that the chairman and the conferees will be able to accept this provision during the conference. It would provide critical relief to families that have sustained genuine losses, and is in the best interests of fairness and family.

Mr. HATCH. Mr. President, I understand the concerns of my friend and colleague from Connecticut and am sympathetic to his position. This provision is an important one and is the right thing to do. A home is often the biggest and most significant investment that most families ever make. It is only fair that an economic loss on that investment be treated the same as economic losses on other investments. This is especially so since we tax the gain from a sale of that home. Like Senator LIEBERMAN, I urge the chairman and the conferees to adopt this provision when it is considered in conference.

AMENDMENT NO. 297

Mr. KYL. Mr. President, there are a number of good things in this amendment, which was offered by my colleague from Arizona, JOHN MCCAIN. If

the amendment were crafted differently and was more limited in scope, I would support it.

For example, I have consistently supported efforts to eliminate funding for the Market Promotion Program [MPP], a program that provides subsidies to companies that advertise American agricultural products abroad. Such promotional activities are a reasonable and fundamental cost of doing business for any industry.

If the return on every dollar spent on export promotion is as good as MPP proponents suggest in terms of jobs and exports, then it would seem to be in the industry's own best interest to bear that cost itself.

I understand that the industry's resources are finite. One more dollar could always be spent on promotional activities, particularly if each dollar produces significant gains in sales. But at some point, the agricultural industry, like any other industry, decides that it cannot expend any more; that the marginal gains do not justify the additional cost. Once the industry defines that point of diminishing returns, it is not appropriate to ask taxpayers to subsidize additional promotional efforts that the industry itself is unwilling to finance.

The amendment also eliminates funding for 266 highway demonstration projects. I strongly support that. Earmarking scarce dollars for politically well-connected projects is one of the most unfair, least efficient, ways of allocating scarce transportation dollars.

The earmarkings in the House version of last year's National Highway System bill totaled more than $2 billion—funds that would otherwise have been allocated according to the more equitable distribution formula established by ISTEA. I am talking about the House version because I served in the House of Representatives when that bill arose, and I was 1 of only 12 who voted against it at the time.

The regular formula for distributing highway dollars is based on such objective factors as population, miles of roads, and vehicle miles traveled. Earmarking, however, is based largely on politics. For example, last year's House bill, just 10 States got 55 percent of the total funds available. Not coincidentally, those States were represented by 36 of the 64 Public Works Committee members. California, home State of the chairman of the House Public Works and Transportation Committee which produced the bill, took 15 percent of the total, about $290 million, for 51 projects. Arizona, by contrast, got just three projects, for a total of $15 million.

Had the earmarkings been eliminated and the funding been distributed according to the ISTEA formula instead, Arizona would have gotten between $800,000 and $7.6 million more than it did under the bill. The three Arizona projects would most certainly be funded under this alternative approach—they all have merit, and are all of high priority—but the State would have had more to devote to other worthy projects as well. Twenty-seven other States would also have done better under the formula than they did under earmarking.

The Senate refrained from such earmarking last year, and I am pleased that both the House and Senate have refrained this year. I support the provisions of the McCain amendment that would terminate 266 unstarted highway demonstration projects that were authorized or appropriated in prior years.

The amendment also eliminates funding for the U.S. Travel and Tourism Administration [USTTA]. Like the Market Promotion Program that offers subsidies to the agricultural industry, the USTTA offers subsidies to the travel industry for promotional activities that I believe the industry ought to bear on its own.

There are other programs, however, that, in my opinion, should not be a part of this package. They are not pork. They are not corporate subsidies.

I am talking primarily about the B-2 bomber. This is a program that is in the national interest. This is not an Arizona project, so I am not here to defend it because my State has a major economic interest in its production. I do not differ with my colleague from Arizona very often, but on this issue, I must.

Mr. President, the Nation's long-range bomber force consists primarily of two aircraft: the B-52 and the B-1. The 95 B-52's are all over 30 years old, and their ability to penetrate modern air defenses is doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

For 40 years, the United States relied on forward presence, or the deployment of large forces in bases around the world engaged in almost constant maneuvers or exercises. With the decline in defense spending and the withdrawal of U.S. forces for overseas bases, the United States will rely increasingly on smaller military forces, operating principally from North America. In the past 6 years alone, the U.S. Air Force has reduced its major overseas bases from 38 to 15—a reduction of 61 percent.

Rather than forward presence, current strategy calls for American power to be projected abroad in response to aggression in regional conflicts. The combination of a bomber with stealthy low observable, long-range, and precision strike capabilities provides the Nation with a competency never before achieved. With its range and large payload, B-2's can penetrate enemy air defenses and disrupt enemy advances in the critical early hours of conflict, before other forces arrive. Later in the conflict, B-2's can strike deep to interdict enemy follow-on forces or high-value strategic targets without fight escort.

I have two letters that I ask unanimous consent be printed in the RECORD—one from seven former Secretaries of Defense, and the other from the former air commander of the Desert Shield/Desert Storm Air Forces—that further expand on the vital importance of the B-2 bomber to the future Armed Forces of the United States.

For these reasons, I believe that the B-2 remains an integral component of our future national security, and I must, therefore, oppose the amendment.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing you to express our concern about the impending termination of the B-2 bomber production line. After spending over $20 billion to develop this revolutionary aircraft, current plans call for closing out the program with a purchase of only twenty bombers. We believe this plan does not adequately consider the challenges to U.S. security that may arise in the next century, and the central role that the B-2 may play in meeting those challenges.

At present the nation's long-range bomber force consists primarily of two aircraft the B-52 and the B-1. The 95 B-52's are all over thirty years old, and their ability to penetrate modern air defenses is very doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

Even after all twenty B-2's are delivered, the inventory of long-range bombers will total barely 200 aircraft. This is not enough to meet future requirements, particularly in view of the attrition that would occur in a conflict and the eventual need to retire the B-52's. As the number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases, it will become increasingly difficult to use tactical aircraft in bombing missions. It therefore is essential that steps be taken now to preserve an adequate long-range bomber force.

The B-2 was originally conceived to be the nation's next generation bomber, and it remains the most-effective means of rapidly projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only three secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time-sensitive targets in a single sortie. And perhaps most importantly, its low-observable characteristics will allow it to reach intended targets without fear of interception.

The logic of continuing low-rate production of the B-2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it also will not be the end of the B-2. We urge you to consider the purchase of more such aircraft while the option still exists.

MELVIN LAIRD.
DONALD RUMSFELD.
CASPAR WEINBERGER.
DICK CHENEY.
JAMES SCHLESINGER.
HAROLD BROWN.
FRANK CARLUCCI.

JUNE 22, 1995.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Earlier this month I wrote to your colleagues in the House of Representatives about the need to continue

the B-2 program. The debate has now shifted to the Senate and my concern with our future security compels me to share the same thoughts with you. This is a difficult letter for me to write as in more than thirty years of service in the Air Force, I have always concentrated on military operations, and refrained from commenting on issues such as whether or not to purchase a specific aircraft. However, the Pentagon recently released a study based on assumptions, constraints, and methodology that can lead to the conclusion that the United States can safely terminate B-2 stealth bomber production at 20 aircraft. As the former Air Commander of the Desert Shield/Desert Storm Air Forces, I feel a duty to put the B-2 debate in perspective, and sound a warning on any recommendation to stop production of this aircraft. To put it bluntly, halting this nation's B-2 production capability is dangerously short-sighted and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America's most critical 21st Century military asset.

Since B-2 is the only bomber in production or development, and the Pentagon has no plans for a new bomber program in the future, the B-2 program and America's bomber production capability are one and the same. If this sole remaining bomber capability is lost, replacing our aging bombers will become unaffordable. Inevitably, the nation may lose its manned bomber force, and the unique capabilities it provides. A new bomber would take from 15-20 years to go from the drawing board to the battlefield and cost tens of billions of dollars just to design. With the current administration balking at spending a fraction of this amount on a finished, proven product, there is little likelihood of a future government sinking many times that amount into a new program. Even if a new program was initiated in the near term, most of our existing bombers would be obsolete before the first "B-3" entered service. The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year-old bomber, an act I find unconscionable.

In my opinion, the B-2 is now more important than ever. Heavy bombers have always possessed two capabilities—long range and large payload—not found in other elements of our military forces. As we base more and more of our forces in our homeland, the bomber's intercontinental range enables us to respond immediately to regional aggression with a rapid, conclusive military capability. Just as important, this capability may deter aggressors even as the bombers sit on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

When the B-2 adds to this equation are two revolutionary capabilities not available in any other long-range bomber—precision and stealth. The Gulf War showed how precision weapons delivery from stealthy platforms provides a devastating military capability. The F-117 stealth fighter proved its effectiveness on the first day of the war when 36 aircraft flew just 2.5 percent of the sorties, but attacked almost 31 percent of the targets.

In the past, employing bombers for critical missions against modern air defenses required large, costly packages of air escort and defense suppression aircraft. The B-2's unmatched survivability reduces the need for escorts and defense suppression aircraft. As we found in the Gulf War with the F-117, stealth allows the U.S. to strike any target with both surprise and near impunity. Analysis of the Gulf War air campaign reveals that each F-117 sortie was worth approximately eight non-stealth sorties. To put B-2 capabilities into perspective, consider that the B-2 carries eight times the precision payload of the F-117, has up to six times the range, and will be able to accurately deliver its weapons through clouds or smoke. What does all of this mean? It means that a single B-2 can accomplish missions that required dozens of non-stealthy aircraft in the past.

Many may wonder why the Department of Defense would advocate terminating the most advanced weapon system ever developed. The B-2 program was cut by the Bush Administration for budget-related political reasons, and some concern that the program would not meet expectations. Since then, delivered aircraft have demonstrated, without qualification, that the B-2 is a superb weapon system—performing even better than expected.

Yet, defense spending has declined, bomber expertise has been funneled out of the Air Force, and people's careers have been vested in other programs. Unfortunately, some in the Army and Navy believe the B-2's revolutionary capability is a threat to their own services' continuing relevancy. Just the opposite is true, long-range, survivable bombers will contribute to the effectiveness of the shorter range carrier air by striking those targets which pose the greatest threat to our ships. The troops on the ground have long recognized the value of air support, especially the tremendous impact that large bomb loads have on enemy soldiers. This was again demonstrated by the B-52 strikes used to demoralize the Iraqi Army. If anyone needs B-2s, it's our soldiers and sailors. Some people harp on the issue of the B-2's cost. The Air Force, at times, seems at odds about asking for this much needed aircraft because they fear it could endanger their number one priority program, the F-22. All miss the point. True the B-2 has a high initial cost, but its capabilities allow it to accomplish mission objectives at a lower total cost than other alternatives. And keep in mind, the true cost of any weapons system is how many or how few lives of our service personnel are lost. The B-2 lowers the risk to our men and women. The B-2 will allow us to accept lower levels of overall military spending without compromising our security.

As we approach this year's critical defense budget decisions, it is important that we understand the long-term national and international security ramifications of the quantum leap in military capabilities offered by the B-2. If we don't, it may disappear when we need it most, and can buy it most cheaply. Make no mistake about this: the B-2 is designed to extend America's defense capabilities into the next Century. Can we afford to do less?

Sincerely,

CHARLES A. HORNER,
General, USAF (Ret.).

LOW-INCOME HOUSING TAX CREDIT

Mr. D'AMATO. Mr. President, I would like to express to my colleagues my deep concern regarding the House Ways and Means Committee's proposal to sunset the low-income housing tax credit in 1997, pending a GAO review of the management of the program.

The low-income housing tax credit is the Federal Government's principal rental housing production program that results in significant private capital for the development of affordable rental housing. Since its inception, as part of the 1986 Tax Reform Act, the low-income housing tax credit has enjoyed broad bi-partisan support in both the House and the Senate. In fact, that support became very clear when 75 percent of the House and nearly 90 percent of the Senate went on record as recently as 1992 in support of legislation to make the credit permanent. It was made permanent in 1993.

Since 1986 the credit has mobilized private capital for public benefit, attracting more than $12 billion in private investment. Nearly 800,000 units of rental housing for lower income working families and the elderly have been constructed or rehabilitated with the low-income housing tax credit. This has lead to the creation of 90,000 jobs each year and resulted in $2.8 billion in wages and $1.3 billion in additional tax revenues.

According to the New York State Housing Finance Agency, in 1994, in our home State, over 6,100 units of rental housing were made possible because of the credit. Over 77 percent of those units, 4,700, were for low-income families, and the production of those units directly resulted in an estimated $520 million of housing investment in the State of New York.

That being said, does the Senator from New York find it as puzzling as I do that the Way and Means Committee would propose to terminate the low-income housing tax credit without benefit of hearings; without any authoritative evidence that the program is not working in an effective manner, and, especially before any review or study?

Mr. MOYNIHAN. Mr. President, I agree with the comments of my friend and colleague, Senator D'AMATO, and I share his concern of the proposed sunset of the low-income housing tax credit.

The credit is a principal incentive which Congress makes available to individuals and corporations to invest in apartment construction and rehabilitation devoted to low-income renters. In fact, when the credit became permanent in 1993, it attracted many new, high quality developers to the construction of lower income rental housing. Today, the credit accounts for one out of every four apartments constructed nationwide and virtually all of the production of affordable rental housing.

More importantly, State agencies, acting under Federal guidelines, manage the low-income housing tax credit program with a minimum of red tape. Under current law, the credit is limited to $1.25 per capita per State and is administered by the States on behalf of the Federal Government. Investors provide equity to projects in exchange for the credits to facilitate the development of affordable units. For 1995, based upon our Nation's current population, the States will allocate $325 million in credits, resulting in about $1.85 billion of private equity being invested in affordable housing. I could not agree more that to sunset one of the best examples of public-private

partnership and Federal-State partnership would be a grave error.

Mr. D'AMATO. Mr. President, I would like to express to Chairman ROTH and Senator MOYNIHAN my hope that when we go into Conference on this matter, that the Senate will be firm in its resolve not to recede to the House on any proposal that would sunset the low-income housing tax credit.

Mr. ROTH. Mr. President, I certainly understand and sympathize with the concerns raised by Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members on both sides of the aisle that reflect the concerns you have voiced today. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

ANWR

Mr. JOHNSTON. Mr. President, I strongly support the provisions of this legislation opening the coastal plain of the Arctic National Wildlife Refuge in Alaska for oil and gas leasing, exploration and development.

Mr. President, the Arctic National Wildlife Refuge [ANWR] is seen by many as a place of great beauty. It is a place of vastness, a place where the land stretches farther than the eye can see. It provides important habitat for muskoxen, brown bears, polar bears, wolverines and a multitude of migrating and other birds. It is a place where, in the summer months, the porcupine caribou herd roams, and rainbows arch over the Beaufort Sea.

But a different kind of national treasure is thought to underlie the surface of a small portion of ANWR. That national treasure is oil—huge quantities of oil. Simply put, the coastal plain of ANWR represents the most highly prospective onshore oil and gas region remaining in the United States.

Mr. President, if developing the large quantities of oil thought to underlie the coastal plain would, as some suggest, destroy the 19 million-acre Arctic National Wildlife Refuge, then the question of proceeding would be much more difficult. But that is not the issue. The coastal plain can and should be developed in an environmentally sound and sensitive way that does not despoil the wildlife and other environmental values of ANWR.

Mr. President, the case for authorizing oil and gas leasing in ANWR is as compelling as it is straightforward.

First, oil and gas activity would be limited to only a small portion of the refuge—the 1.5 million-acre coastal plain—also known as the "1002 area—" an area some 30 miles wide by 100 miles long. Absolutely no oil and gas activity would take place on the remaining 17.5 million acres that comprise the refuge. In fact, approximately eight million acres of ANWR, have already been designated as wilderness, including 450,000 acres of the coastal plain region between the Aichilik River and the Canadian border.

In addition, the technology and the environmental sensitivity of oil field development in the Arctic have evolved steadily in the 25 years since the oil and gas facilities at Prudhoe Bay, which are located directly west of ANWR, were designed and constructed. Given these advances, and with the environmental safeguards that are currently applicable to all oil and gas activities in the Arctic, development can take place on the coastal plain in an environmentally sound manner without lasting effects.

It is a serious misconception that oil and gas development would destroy the habitat functions of the coastal plain. In reality, full leasing, development and production from three oil fields, for example, would affect less than 1 percent of the area's land surface by both direct habitat alteration and by indirect effects such as road dust or local impoundments of water along a road. Ninety-nine percent of the area would remain untouched; and the area's habitat will not be altered sufficiently to affect the size, growth rate, or regional distribution of fish and wildlife populations. The area will continue to be used by caribou for calving and will continue to provide habitat for polar bears, brown bears, wolves, muskoxen, and millions of birds.

The only significant change on the coastal plain would be aesthetic. If oil is discovered, widely spaced roads, pipelines, drilling structures, and support facilities would be visible on the coastal plain. Of course, even these facilities would be removed and graveled areas rehabilitated when production ceased. During the years of exploration and production, the coastal plain region will still support wildlife, provide recreational opportunities, and be home to the Inupiat Eskimo.

Mr. President, the vegetation and wildlife inhabiting the coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central arctic caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development activities began at Prudhoe Bay in the early 1970's. The caribou live alongside the structures related to oil and gas activity, such as roads, pipelines, and drilling pads, with no ill effects.

While it is true that the porcupine caribou herd uses a portion of the coastal plain for 6 to 8 weeks each year, it is not true that this area contains core calving areas critical to the survival of the 150,000 animals which currently comprise the herd. In the first place, the herd calves throughout a huge expanse of territory in Canada and Alaska, including portions of ANWR. In some years, probably as a result of snow conditions or the presence of predators, only a very few caribou calve in the coastal plain at all. In other years, there is a higher concentration of calving in certain areas of the coastal plain. The widespread and annually variable distribution of calving strongly suggests that no one small portion of this huge calving area is critical to maintaining the viability of the porcupine caribou herd.

Finally, the human activity resulting from oil production would not be new to the coastal plain. Although human presence in the coastal plain region has been relatively light, there has been, and continues to be, evidence of man in the area. There have been three DEW line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area three times in recent history, and there have been, and continue to be considerable subsistence activities in the area.

Mr. President, let me now turn to the crucial importance to our Nation of the oil thought to underlie the coastal plain. For the foreseeable future, oil will remain a critical fuel for the United States and other industrialized nations. Currently, the United States consumes approximately 17 million barrels of oil per day. The Department of Energy projects that under current policies, this may well increase to almost 23 million barrels per day by the year 2010. At the same time, domestic production will decline, resulting in a significant increase in foreign oil imports. DOE projects that domestic production of crude oil will fall from today's level of 6.8 million barrels per day to 5.4 million barrels per day in 2010, a decrease of 21 percent.

Imports of foreign oil are projected to increase substantially by the year 2010, making our Nation dependent on foreign oil for more than 60 percent of our oil needs. This level of import dependence is extremely dangerous for our country.

More significantly, as the Persian Gulf war tragically demonstrated, oil is an important strategic resource, and the struggle to control that region's vast oil reserves can disrupt the delicate balance of peace in the Middle East.

United States oil imports are so massive, and the use of oil is so ingrained in our economy, that a substantial demand for oil will exist for the foreseeable future—certainly well into the early decades of the 21st century. This conclusion remains firm in the face of even the most optimistic assumptions about increases in energy efficiency and the substitution of alternative fuels. These policies alone will not suffice. Unless domestic oil production is encouraged and pursued, oil imports will continue to rise, and rise significantly.

By any measure, the coastal plain of ANWR represents the primary prospect

for domestic onshore oil and gas exploration in the United States. The opponents of opening the coastal plain argue that the amount of oil at stake is not significant, that it is only a 200-day supply. However, a single field large enough to supply this country with all of the oil it consumes for 200 days represents a huge reservoir of oil. Eighty percent of all onshore oil fields discovered in the lower 48 States over the last 100 years have contained less than 1 day's supply.

According to the BLM, the mean estimate of oil thought to be economically recoverable from the coastal plain of the ANWR is 3.2 billion barrels. The range of estimated economically recoverable reserves runs from 400 million barrels to over 9 billion barrels. The probability of discovering economically recoverable oil has been estimated by that agency at 46 percent. The oil industry routinely considers probabilities of discovery in the range of 10 percent worth the payment of substantial bonuses for the right to explore for oil.

As many of my colleagues know, the USGS has recently completed its 1995 assessment of onshore oil and gas resources for the United States. In general, the assessment shows an increase in the amount of natural gas thought to be present in northern Alaska and a decrease in the amount of oil thought to be present in that area. The USGS has prepared a preliminary analysis of the oil potential of the coastal plain and has concluded in a draft memorandum that the mean estimate for oil in the 1002 area is slightly less than a billion barrels, with a 1 in 20 chance that some 4 billion barrels are present. The agency is currently in the process of gathering more information from the 1002 area to refine its very preliminary estimate. The BLM, it should be noted, continues to have confidence in its earlier mean estimate of 3.2 billion barrels for the 1002 area.

Since 1980, when we began to debate the issue of opening the coastal plain of ANWR, there have been numerous studies and estimates of the amount of oil likely to be found if the area is opened to leasing. These estimates have been made by the BLM, USGS, the Energy Information Administration, the GAO, the State of Alaska, the American Association of Petroleum Geologists, and others. These estimates vary considerably due to different methodologies employed, different interpretations of geologic data, and differing geologic engineering and economic assumptions that are made relative to the methodology.

As a result, it is very difficult to directly compare these estimates. However, two important conclusions can be drawn from these estimates.

First, they all reflect a wide range of uncertainty, which is expected for an area that has not been drilled. Until we have reliable well data from the 1002 area, we simply have no way of knowing how great the potential of the area is. Second, all these estimates show a very large potential for oil and gas, with even the lowest estimates that have been made having an upside potential of at least 4 billion barrels.

In addition to the benefits to the country provided by the oil itself, the Federal Treasury will also benefit. Under the ANWR provisions contained in the bill currently before the Senate, the CBO estimates that two lease sales in the coastal plain will occur between now and the year 2000 which will result in bonus bids totalling $2.6 billion. The legislation requires a 50-50 revenue split with the State of Alaska—the same as other western States—which will mean that the Federal Treasury will receive $1.3 billion in new revenue during the next 7 years if the coastal plain is leased. Should oil be discovered and produced from ANWR in significant amounts, a steady stream of royalty income will also accrue to the Federal Treasury for many years to come.

In addition to the direct budget plus for the Treasury, this measure provides that the Federal share—50%—of bonus bid revenues in excess of $2.6 billion will be made directly available for maintenance, repair and rehabilitation projects at our Nation's national parks and refuges. This provision will provide a significant funding source for our parks that so desperately need more money.

Mr. President, oil and gas development on the coastal plain is a step that must not be postponed any longer. Most experts agree that it will take up to 10 or 15 years before commercial production could begin if the area is leased this year. Sometime between 2008 and 2014, the DOE estimates that production from Prudhoe Bay and adjacent fields, which currently account for nearly 25 percent of our domestic oil production, is projected to decline to approximately 300,000 barrels per day, the minimum level needed to operate the Trans-Alaska Pipeline System [TAPS]. If we continue to delay exploring for oil on the coastal plain and developing what we find there, the TAPS could be forced to shut down, and we will have lost our ability to transport billions of barrels of Alaskan oil to waiting consumers.

When Congress enacted the Alaska National Interest Lands Conservation Act in 1980, we declined to designate this portion of ANWR as wilderness and specifically reserved for ourselves the decision on whether that area should be made available for oil and gas leasing. We directed the Secretary of the Interior to study the area and to make recommendations on whether to allow oil and gas development. In 1987, the Secretary recommended that oil and gas development be allowed to take place. Since that report was issued, the Senate Energy and Natural Resources Committee alone has conducted 11 hearings and built a solid and thorough record on this issue. Our committee has voted on three separate occasions, on a bipartisan basis, to proceed with oil and gas leasing.

It is now time for the Senate to exercise its responsibility and make a decision with respect to oil and gas development on the coastal plain. Our Nation can have the benefit of the oil from ANWR, the revenues leasing will generate, and still preserve the beauty and the vastness of the Refuge.

THE BUDGET RECONCILIATION BILL—A MISSED OPPORTUNITY TO MAKE SMART CHOICES

Mr. DORGAN. Mr. President, during the past few days, we have had extensive debate on the Senate floor about what this budget reconciliation package will mean for the Medicare and Medicaid programs. Now, as we reach the conclusion of this debate, I want to explain some of the reasons why I must oppose it.

I want to say right off that I am deeply committed to ensuring that the Medicare and Medicaid programs will be here for the millions of older Americans, children, and individuals with disabilities who have come to rely on the services they provide. Thanks to Medicare, 99 percent of senior citizens, who have paid into the program during their working years, now have affordable, guaranteed health care coverage. Likewise, Medicaid provides a much-needed safety net for 36 million low-income elderly nursing home patients, the disabled, and pregnant women and children.

WHAT IS THIS DEBATE ABOUT

The debate on Medicare and Medicaid has centered not so much around whether projected spending for these programs should be reduced, because Members of both parties agree that this should be done. Instead the focus has been on how much spending should be cut. I believe we should limit the rate of growth of both of these programs to a more sustainable level so that they will continue to be here for the beneficiaries who depend on them.

However, I am convinced that the bill before us—which will cut projected Medicare spending by $270 billion and Medicaid spending by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spending per beneficiary be held to a growth rate of 4.9 percent, while private health insurance will continue to grow at a rate of 7.6 percent per person. It is just not reasonable to expect Medicare to grow by such a small amount, especially when you consider that 200,000 Americans become eligible for the program each month. Just within the 7 years covered by this budget reconciliation bill, Medicare will insure 3.7 million more people than it does today.

We have been told repeatedly by the majority that these $450 billion in cuts are necessary, particularly to save the Medicare program from insolvency.

But according to Medicare actuaries, only $89 billion is needed to extend the Medicare trust fund for 10 years.

So why does this bill cut Medicare by $181 billion more than the experts say is necessary—and cut Medicaid by $182 billion? Because this budget reconciliation bill also contains $245 billion in new tax breaks, which will largely benefit the wealthiest in our country.

It is wrong to be making an unprecedented level of cuts to Medicare, Medicaid, and other critical programs while granting tax relief to people making over $100,000 per year and to large corporations taking advantage of tax loopholes.

THE IMPACT OF THIS BILL ON SENIORS

Under this bill, older Americans will be asked to pay more for their health care but can expect to get less for their money. The premiums that seniors pay out of their Social Security checks for their physician services will double and could exceed $100 per month in the year 2002. On top of that, their deductible would also increase from $100 to $220.

I fear that these premium and deductible increases could make Medicare coverage out of reach for some seniors. Most older Americans have very modest incomes. Seventy-five percent of seniors on Medicare live on less than $25,000 a year. And in North Dakota, older Americans get by on even less: 70 percent of our state's seniors have incomes of under $15,000.

Already, seniors spend 21 percent of their income for health care. In 1994, the average older American spent $2,500 for medical care, prescription drugs, and other health care expenses not covered by Medicare—and this figure does not even include the cost of long-term nursing home care, which averages nearly $40,000 a year.

In addition to costing more, the quality of health care older Americans receive could very well decline. That is because the portion of the cuts that do not fall directly on beneficiaries will be borne by doctors, hospitals, and other health care providers, who even now are reimbursed at only 68 percent of the amount they get from private payors. As a result, these cuts could create a second-class health care system for the elderly.

This budget bill, with its $182 billion cut in projected Medicaid spending, could force hundreds of thousands of middle-income seniors and their families to shoulder the substantial burden of nursing home costs also. It turns the Medicaid program over to the states in the form of a block grant and repeals the Federal guarantee for nursing home care for the 60 percent of nursing home patients who qualify for Medicaid—many of whom have already used up their life savings in paying for their care.

CONSEQUENCES OF MEDICAID "BLOCK GRANT" FOR THE NEEDY

Our Nation's seniors are not the only ones who are being asked to pay the bill for tax breaks for wealthy individuals and corporations. Children will also lose under this plan to turn Medicaid over to the States as a block grant. One in five children currently receive their health care through Medicaid. Their care is not expensive—they represent 50 percent of all Medicaid beneficiaries but receive only 15 percent of the benefits—but it is important. The immunizations and preventive care that these kids receive help them to grow up to be healthy, productive adults. I think it is also worthwhile to note that fully half of the kids now covered by Medicaid are members of working families.

Under the block-grant plan, North Dakota will receive 22 percent less Medicaid funding over the next 7 years than our State is projected to need. Cutting provider reimbursement rates and enrolling more beneficiaries in managed care simply will not generate enough savings to offset the loss in Federal funding, so States will have no choice but to terminate coverage for some current recipients or to reduce the benefits offered.

IMPACT ON THE HEALTH CARE SYSTEM

I believe cuts of the magnitude called for under this bill will also devastate the health care system, particularly in rural areas. The majority of the savings achieved in Medicare will come through reducing payments to hospitals, home health care providers, and other health care professionals.

One-quarter of all rural hospitals are already operating at a loss and are in danger of being shut down if their payments are reduced further. Rural hospitals are dependent largely on Medicare and Medicaid patients for their livelihood. Between 1983 and 1993, the number of rural hospitals dropped by 17 percent, compared to a 2 percent drop in urban hospitals. Rural residents already suffer from a lack of access to medical care, and additional hospital closings in rural areas will further exacerbate this problem.

Cuts of this magnitude cannot be absorbed within the Medicare system alone, so health care providers may have no choice but to shift the burden for their uncompensated costs onto their other patients in the form of higher fees. I do not think it makes much sense to force higher costs for medical bills and health insurance onto the rest of the population, thereby pricing health care out of reach for even more Americans.

A RESPONSIBLE MEDICARE ALTERNATIVE

I believe it is possible to balance the budget and protect Medicare at the same time, and I supported Senator ROCKEFELLER's amendment that would have accomplished this goal. Under Senator ROCKEFELLER's amendment, Medicare's projected spending would have been reduced by $89 billion, ensuring the solvency of the Medicare trust fund through 2006. This $89 billion is a far more reasonable reduction and could have been achieved without new increases in costs for people who simply cannot afford to pay more for health care and without damaging our world-class health care system.

Senator ROCKEFELLER's amendment would have been paid for by scaling back the tax breaks provided in this bill for wealthy Americans. I thought that was the responsible course of action, but unfortunately, a majority of my colleagues did not agree, and the Rockefeller amendment was rejected by a 53–46 vote.

A BETTER CHOICE FOR MEDICAID

As with Medicare, I agree that we must control Medicaid's rate of growth, but I cannot support the block grant approach provided for in this bill. As an alternative, I voted for Senator BOB GRAHAM of Florida's amendment to reduce Medicaid's projected spending by a more reasonable $62 billion over seven years. This amendment would have maintained the guaranteed safety net that Medicaid provides for more than 36 million needy older Americans, the disabled, and pregnant women and children. At the same time, the Graham amendment would have restrained the rate of growth of the Medicaid program by placing a cap on federal funding based on per person spending, rather than by a flat block grant. But, as with the Rockefeller amendment for Medicare, Senator GRAHAM's amendment was defeated by a narrow 51–48 margin.

I am very disappointed that a majority of my colleagues have let these opportunities for responsibly controlling Medicare and Medicaid spending pass them by, and I simply cannot support the more drastic, and unnecessary, cuts to spending still called for in this bill.

President Clinton has indicated that he will veto this bill unless these severe cuts are moderated before it reaches his desk. It is my sincere hope that, after this bill is vetoed, Congress and the President will be able to work together to achieve a reasonable compromise that will provide the fiscal discipline the American people want from the Federal Government without sacrificing the health security they deserve.

Mr. ROCKEFELLER. Mr. President, in my view, every United States Senator will be making a statement about their fundamental priorities as they cast their vote on this reconciliation package. While each and every vote cast on this floor is key, today's vote on the reconciliation bill is a pivotal one about the future of our country, and the role that our Federal Government can and should play in the lives and well-being of American families.

While most of our debates have focused on budget numbers, I have tried to talk about the families and the real people who depend on Medicare, Medicaid, student loans and all the other major programs affected by this legislation in many serious ways. The provisions of this bill will have enormous impact on children, families, and seniors in West Virginia and every State

in this Nation. We should be mindful of them as we cast our votes.

I want to be clear. I believe we can and should balance the Federal budget and eliminate the Federal deficit. This is a vital goal, but it is equally important to ensure that the burdens of achieving a balanced budget are responsibly and fairly shared among all Americans. I strongly feel that we should not balance the budget on the backs of seniors, poor children, and working families.

The programs that would be drastically cut and changed by this reconciliation bill often are the difference between security and insecurity, health and illness, and sometimes life or death for seniors and American families who depend on Federal programs for their health care security.

I was proud to take the lead in offering the first major amendment to this budget, designed to save Medicare, a historic program that has provided seniors with health care security since 1965, giving them peace of mind and a higher quality of life. While some may cast aspersions on Medicare, I believe it is one of America's proudest achievements.

Our amendment was not to retain the status quo. We know we must make changes in the system to restore the solvency of the Medicare trust fund. But the solvency of the trust fund does not require cutting Medicare by $270 billion. Such extreme cuts will threaten health care for 30 million seniors—330,000 of them living in West Virginia—and further erode our health care system.

For seniors, the reconciliation package means that their Medicare deductibles will double and their premiums will skyrocket. When the average income of seniors citizens is $17,750, and they pay 21 percent of their income on health care, they are incredulous and petrified to hear that their Medicare is being used to pay for tax breaks and tax give-aways to far, far wealthier Americans and every imaginable kind of corporation.

I cannot go back to West Virginia and hold town meetings in senior centers as I often do, and justify a vote to slash Medicare by $270 billion in order to finance tax breaks for the wealthy. West Virginians believe in fairness and common sense, and this attack on Medicare flunks that test.

Seniors will not be the only ones hurt by the budget's Medicare cuts. West Virginia hospitals are threatened with the possibility of losing $25 million in 1996 and more than $681 million over the next 7 years, and I fear that some of our hospitals may not survive such cuts.

For real people in West Virginia who depend on Medicare for their health care coverage, the Republican rhetoric about Medicare reform rings hollow.

And Medicare is not the only health care program slated for harsh cuts under this Republican plan. This reconciliation package also seeks to cut Medicaid funding by a whopping $187 billion over 7 years.

People need to understand what such harsh cuts mean. Medicaid covers poor children, pregnant women, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?

Coming from West Virginia, when I think of a family, I think about children, parents and grandparents. What happens to parents struggling to balance raising children and caring for aging parents?

If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family? The child tax credit is $500 a year for "some" families lucky enough to qualify, but the loss of Medicaid nursing home coverage will cost those same families $16,000 to $30,000 a year.

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer's Disease as long as she could at home. But as her mother's illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother's meager savings are exhausted, Julie and her family with be much, much worse off. That child tax credit will not cover even a month of nursing home care for her mother.

This is real story about a family hurt, not helped by drastic health care cuts in this package. In my State of West Virginia, over 21 percent of our residents rely on Medicaid so their are countless more stories and fears about what will happen to aging parents.

And it will not just be individual families hurt by the Medicaid cuts. The health care system in my State is fragile, rural hospitals are already closing, and West Virginia cannot absorb more than $4 billion in cuts without cutting necessary health care services, including basic issues like infant mortality. A recent newspaper article made this point, clearly with a headline: "[Medicaid] Cuts may affect infant mortality." The article reports that my State, thanks to Medicaid-funded programs, has reduced its infant mortality death rate from 18.4 deaths per 1,000 in 1975 to 6.2 deaths per 1,000 in 1994 which is even better than the national rate of 8.0 deaths per 1,000 births. As Governor, I helped start the effort to reduce infant mortality, and I must protest any action that turns back the clock.

We should not tolerate backwards steps on basic health care objectives like reducing infant mortality.

I understand that Medicaid needs reform and Democrats offered an amendment that suggested reducing the growth in Medicaid spending in a responsible way with a per capita cap. I truly want meaningful reform of health care, but I do not believe that creating a Medicaid block grant is serious reform. it is merely passing the buck—or actually passes far fewer dollars and far greater problems onto States. This is not fair to states or to the Americans who desperately need health care from Federal programs.

The assault on families in this budget package is not limited to the attacks on federal health care programs. Republican rhetoric claims that this legislation will help families, because of its $500 child tax credit.

As chairman of the National Commission on Children, I am clearly on record in support of a child tax credit, but it must be a refundable credit so that children in all families can benefit. Unfortunately, the child tax credit in this legislation is not refundable, and every amendment offered to make it even partially refundable was rejected. Consequently, over 20 million children are excluded from this child tax credit, and I do not think this is fair. These children are in families earning less that $30,000 a year and their parents clearly need and deserve a tax break.

To add insult to injury, not only do Republicans deny the credit to such hard working, low-wage families, Republicans are paying for the credit by imposing a tax increase on working families by cutting $43 billion from the earned income tax credit (EITC).

There has been much debate about the EITC, and I want to clearly state that EITC is tax relief only available to working families, and it is designed to offset payroll taxes, which often are a greater tax burden for low wage families than personal income taxes.

The Republican leadership dismisses these arguments, saying that their tax package helps middle class American families. And this sounds good, but I want to know how they define the middle class?

In my State of West Virginia, we believe that parents who go to work every day and struggle to raise their children are middle class, admirable and deserving of support and encouragement. More than 65 percent of our taxpayers are working hard but earn less—less than $30,000. For many of these families, they will worse off, not better, under this bill.

Just 2 years ago, these working families were promised tax relief. Now Republicans are reneging on that deal and raising taxes on families earning less than $30,000. For families with two or more children, their taxes will go up an average of $483. For families with one child, taxes will keep an average of $410. This will hit more than 77,000 families with children in my state of West Virginia alone.

But such numbers can be numbing. We need to get beyond the rhetoric and look at real families.

A real family, like the Helmick family of New Milton, WV, will be worse off, not better. The Helmick family has 6 children, ranging in age from 15 to four. Mr. Helmick works full-time as a

truck driver for a local construction company, and Mrs. Helmick is a full-time homemaker. In the past, they have used their EITC for baby furniture and to buy a used truck so Mr. Helmick has reliable transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt, not helped.

Families like the Helmicks cannot claim all of the child tax credit, and they will be hurt by the cuts in EITC; and I doubt that they will be claiming capital gains tax breaks either. For them, this package does little more than renew their cynicism since it reneges on promises made just two years ago when we told families to play by the rules, go to work instead of on welfare, and we will offset your payroll taxes so that you do not have to raise your children in poverty.

Mr. President, I am not against the idea of tax cuts. In fact, I would support a limited tax cut for the most needy families and some relief from burdensome taxes for companies that need it. But when you look at this bill, while it was artfully crafted to appear to have something for everyone, it is really a farce. It is full of tax pork for the wealthy and goodies for those who do not really need it.

On the surface, how can anyone oppose tax relief for families? The Republican rhetoric is, as always, good—tax relief for families, and help for companies to create jobs. It sounds so tempting to give hundreds of billions of dollars away, but when you look at what Republicans are reality doing, and how they are doing it, you say "wait a minute." Their rhetoric is one thing, but reality is another.

They say they are balancing the budget, but they will add nearly a trillion dollars to our national debt in the next seven years. They say the tax cut is "paid-for" by an economic dividend of balancing the budget; but the truth is, they are adding $224 billion to our accumulated debt over the next 7 years. In fact, if you add interest, the total is more like $268 billion. Republicans are borrowing money from the middle class they claim to be championing in order to give money away to their fat-cat friends.

Think of it as a new credit card with a credit line of $1,000. Every month you take home $1,500 after taxes and spend $1,600. You can do that because you have the credit card. You are charging $100 every month to your credit line. Well, after 5 months, you owe the $500 you borrowed on your credit card, plus interest. Then you decide, you don't like spending more than you are making, so you force yourself to spend less. For the next 7 months, you bring your spending down from $1,600 a month to $1,585 a month, then $1,570 a month, then $1,570 a month, and so on until at the end of the year, you are spending $1,500 a month. You have a Balanced Budget. You are making $1,500 a month and spending $1,500 a month. Then you look at your balance you owe on your credit card, and guess what—you owe $800, plus interest. How did that happen? You went on a path to balance in June when you owed $500 plus interest, but in December you owe more than $800. It is because every month on the way to balance, you borrowed more to cover your over spending. You borrowed $85 dollars one month, $70 the next, $55 the month after that, and so on.

That is what this bill does. Sure, it gets us to balance by 2002, but along the way, we are going to overspend what we take in by nearly $1 trillion. Every year between now and 2002 we spend more than we take in. We borrow more to pay for this tax cut. That is $1 trillion added to our accumulated debt. And of that $1 trillion added to the debt, $224 billion is this tax cut ($268 billion, if you add the interest). If we got rid of this tax cut, or reduced the tax cut down to size of the real economic dividend, our deficit every year would be less, and the accumulated debt, the amount the American people owe, would be less.

This debate is about priorities. Do we want to run up the bill on all of us in order to give money to the wealthy to buy goodies? We are running up our national credit card so the richest Americans—those who earn more than $350,000 a year—get a tax cut of $5,600. Do we want to spend $40 billion on capital gains tax cuts for the richest Americans and recklessly slash health care for the most needy and the elderly? Do we want to cut taxes by more than $1.7 million on estates worth over $5 million by raising taxes on the working poor?

Again, West Virginians have a basic sense of fairness. How can I tell them that families are helped, when the result of this whole bill will mean that poorest fifth of Americans would shoulder fully half of the program cuts with an average loss of nearly $2,500 per family in 2002.

At the same time, the Treasury estimates that almost two thirds of the proposed tax breaks would go to the wealthiest fifth of the population, who would gain almost $1,400 per family.

In fact, the top one percent of families—those with incomes greater than $350,000 per year, would get an average tax break of $5,600. The capital gains tax break will benefit taxpayers with incomes between $20,000 and $30,000 by about $5 on average. Those making more than $200,000 will receive an average cut of nearly $1,500. How is that fair?

How can the authors of this bill look at themselves in the mirror, let alone look into the faces of the most needy in America, and say they are doing the right thing? I cannot go to town meetings in my state and tell West Virginians that I supported such an unbalanced, unfair deal.

I could support tax cuts that were honestly paid for. I could support tax cuts that are fair. But I am not going to support tax cuts paid for by raising the money from those least able to pay. I even think we should consider giving some limited tax relief to American companies that need it. In fact, I am proud to be the author of a bill that helps capital intensive industries such as steel, chemicals and wood-paper compete in the international market place. That bill fixes something called the Alternative Minimum Tax (AMT) by changing the way companies calculate the value of their property. Unfortunately, even in this bill of tax goodies, and big corporate give-aways, the Republicans could not do it right, they only did a half measure.

The problem these companies have is that under the AMT, the tax code does not recognize in any real-world way, how to depreciate their assets. Steel, chemicals, wood-paper, any capital intensive industry, where the costs are high and the margins are low, these companies need to change the length of time they have to depreciate their assets. This is known as lives. Under the current tax law, after 5 years, a US steel maker under AMT recovers only 37 percent on its investment in new plant and equipment, versus 58 percent in Japan, 81 percent in Germany, 90 percent in Korea, and 100 percent in Brazil. This is largely a result of the AMT. It is my strong hope that conferees will look at this with an understanding eye. I am hopeful that they will. When you look at how the AMT puts our companies in such a competitive disadvantage, I think the need for corrective action is clear.

Another disturbing provision tucked into this package is the proposal to eliminate the 50 percent interest exclusion on loans to purchase employees stock ownership plans (ESOPs). As Governor of West Virginia, I worked closely with the workers of Weirton Steel to establish an ESOP that kept the mill open, and the community alive. Weirton officials question if they could have secured the financing necessary in the early 1980's to create this ESOP without this tax incentive. Weirton Steel is the largest private employer in West Virginia in my State. Despite the rocky roads that the American steel industry has faced, Weirton Steel has not only survived, it has invested almost half a billion dollars in modernization so that it will be internationally competitive into the next century—and it remains an ESOP with involved employee owners. There are other successful ESOPs in West Virginia, and I hope there will be more in future. We should not slam the door shut on such future ESOPs by eliminating the incentives for start-up loans, in my view.

Mr. President, this legislation is nearly 2000 pages long—I shudder to think about other provisions tucked quietly into this bill. It was presented to the Senate on October 23, 1995, and

we are expected to vote on the legislation with only four days of review. There has not been time to carefully analyze this massive legislation or to learn what is on each and every page—much less understand the complicated interactions of the policies and programs.

I do know that on page 1851 there is a proposal that I cannot support. It is a secret deal in the Republican budget that fundamentally breaks the promise of lifetime health benefits to retired coal miners and their widows—nearly 30,000 of whom live in the State of West Virginia. More than 60,000 more older miners and their widows are living in almost every other State in this union.

I am obligated to expose the secret and to call it what it is—a pay-off for a set of greedy corporate interests that will not stop until they have bled the miners' health trust fund of every last dollar needed to protect miners benefits. Republicans say they will restore the miners' trust fund—the miners' only real guarantee that their health care will be there for them when they need it. I am not willing to gamble with the health security of 92,000 miners and their widows.

I cannot abide such a tawdry provision in this or any reconciliation package. I appeal to whatever sense of justice my Republican colleagues have. I ask them to give up this corporate payoff before any more damage is done.

This cruel little provision might have escaped the notice of many. In a package that gives away billions, this provision only deals with tens of million of dollars. But these millions mean security to the older miners and their widows. This small trust fund is all they have, and it stands between their health security and a peace of mind, and financial ruin and destitution when illness strikes these aging miners.

This is a complicated issue with a long history, and I could go into excruciating detail. But the bottom line is that Republicans want to hand over the money that is keeping the retired miners' health trust fund solvent to a group of special interests represented by high priced lobbyists.

As I have said earlier, I want my colleagues to think about the real families that could be truly hurt by this package.

The day after the Finance Committee reported out their handiwork that demolishes the health security of more than 92,000 miners and their widows for the sake of a few of the biggest and most profitable companies in this country, I went back home to West Virginia. I went back to tell miners and their wives what happened.

The miners I met with were reserved, as many miners are, especially older ones who have seen it all, strikes and cave-ins, shut-downs and lay-offs. They have learned to accept a lot in life. They have seen their coworkers killed, or mangled, or dismembered. They have suffered the loss of their own lungs and limbs. They do not have a lot to pass onto their families in temporal terms, but they have good hearts and an incomparable work ethic. They have the values they hold dear—their emphasis is on community and family and caring. And until the Senate Finance Committee action, they had their UMW health card to get their health benefits and knew that it would protect their wives when they died too hard and too soon.

One miner who worked for decades in the mines told me starkly, "We're worried to death." He said, "Now it seems like the company is the one running the whole show. They want to do away with us when we were the ones that worked and built everything else."

His question was this, "What's going to happen to me if I lose my benefits?" And he answered his own question with, "They'll probably put me in my grave before my time."

Another miner, characteristically, worried about his wife who is a diabetic. "Gosh, if I had to buy her medicine, I do not know what would happen." Today retired miners' health benefits pay for prescription drug medication after they meet a modest deductible.

Under this reconciliation package, on page 1851, we are taking away the health care security of these miners, and we are reneging on a promise made more than 40 years ago by President Truman and reaffirmed just 2 years ago and signed into law by an act of Congress.

If this Senate and this society renege on this promise to a group of old frail miners, their wives and their widows, what are we worth?

Does a promise have no meaning? Does a contract not matter? Can a law be repealed when it becomes inconvenient for a profitable, influential businesses?

Promises do have meaning for me.

When I was elected by the people of West Virginia, I made promises to West Virginians. I vowed to fight for their priorities and do my best to serve them and respond to their concerns.

This reconciliation bill simply does not respond to the real needs of West Virginia families, or even West Virginia businesses.

The Republican rhetoric is good, but the reality is that this bill will undermine health care for seniors, raise taxes on working families, and jeopardizes the health care for retired coal miners and their families.

This is a harsh package that hurts real people, and I strongly oppose it. With this legislation, we are walking away from basic commitments to some of the most needy individuals in our society, and the debate over this package has saddened me greatly. We can, and we should, do better as public servants. I will vote no, and continue to fight against such unfair legislation.

Mr. FRIST. Mr. President, before we vote on final passage of S. 1327, a historic piece of legislation, I wanted to submit for the RECORD materials presented to me by the United States Chamber of Commerce. The Chamber of Commerce is an ardent supporter of S. 1327 and believes that the time is now to balance the Federal budget, streamline Government programs and, importantly, save the Medicare Program. Included in these materials is a study prepared by the Chamber of Commerce regarding the economic impacts of Medicare. I commend this study to my colleagues and thank the chair.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U.S. Chamber of Commerce, Economic Policy Division]

THE MEDICARE CRISIS: THE TAX SOLUTION IS NO SOLUTION

The only solution detailed by the Medicare Board of Trustees for achieving financial balance in Medicare Part A is to raise taxes. Unfortunately, this is no solution at all. Higher taxes will rob working individuals of their hard-won dollars, significantly increase costs on small and large businesses alike and bring the economy to the brink of recession.

The Trustees calculate that balancing the Medicare trust fund for the next 75 years requires us to immediately hike the Medicare payroll tax from 2.90% to 6.42%. While the tax increase may seem to amount to only a few percentage points, it amounts to hundreds of dollars to the typical worker, thousands of dollars to the small business, and billions of dollars for the economy. Analysis by the Economic Policy Division of the U.S. Chamber of Commerce suggests the following impacts on individuals, businesses and the economy:

For a worker making $30,000 a year, total Medicare payroll taxes paid would jump to $1,926 from the current $870.

A small business employing 25 such workers would be liable for an additional $13,200 tax payment per year.

When aggregated across the entire economy, the effect would be to lower real GDP by $179.4 billion within two years and hold GDP about $95 billion lower 10 years later. This amount to a 3.1% decline in GDP in the short run. With economic growth projected to average less than 3% over the next five years, this decline could easily result in a recession.

These results are even more startling when you consider that they represent an optimistic evaluation, not a worst-case scenario.

OVERVIEW OF MEDICARE: WHY REFORM IS NECESSARY

Medicare is a nationwide health insurance program for older Americans and certain disabled persons. It is composed of two parts: Part A, the hospital insurance (HI) program, and Part B, the supplementary medical insurance (SMI) program.

Part A covers expenses for the first sixty days of inpatient care less a deductible ($716 in 1995) for those age 65 and older and for the long-term disabled. It also covers skilled nursing care, home health care and hospice care. The HI program is financed primarily by payroll taxes. Employees and employers each pay 1.45% of taxable earnings, while self-employed persons pay 2.90%. In 1994, the HI earnings caps were eliminated, meaning that the HI tax applies to all payroll earnings.

Part B is a voluntary program which pays for physicians' services, outpatient hospital services, and other medical expenses for persons aged 65 and over and for the long-term

disabled. It generally pays 80% of the approved amount for covered services in excess of an annual deductible ($100). About a quarter of the funding comes from monthly premiums ($46.10 in 1995); the remainder comes from general tax revenues and interest.

Medicare is not a means-tested program. That is, income is not a factor in determining an individual's eligibility or, for Part B, premium levels. Age is the primary eligibility criteria, with the program also extending to qualified disabled individuals younger than 65.

Over the years, tax revenues for Medicare Part A have exceeded disbursements, and so the remaining revenues have been credited to the Medicare HI Trust Fund. At the end of 1994, the trust fund held $132.8 billion.

CONCLUSION OF THE TRUSTEES

Each year, trustees of Medicare's Hospital Insurance Trust Fund analyze the current status and the long-term outlook for the trust fund, and their findings are published in an annual report. The 1995 edition, issued in April, demonstrated that the Medicare system is in serious financial trouble. The program's six trustees—four of whom are Clinton appointees (cabinet secretaries Robert Rubin, Robert Reich and Donna Shalala, and commissioner of Social Security, Shirley Chater)—reported the following conclusions:

Based on the financial projections developed for this report, the Trustees apply an explicit test of short-range financial adequacy. The HI trust fund fails this test by a wide margin. In particular, the trust fund is projected to become insolvent within the next 6 to 11 years. . . (HI Annual Report, pg. 2)

Under the Trustees intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years. (pg. 3)

The program is severely out of financial balance and substantial measures will be required to increase revenues and/or reduce expenditures. (pg. 18)

. . . the HI program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program. (pg. 28)

The Trustees believe that prompt, effective and decisive action is necessary. (pg. 28)

The same set of Trustees also oversees the Medicare Part B program. In their 1995 Annual Report, they wrote: "Although the SMI program (Medicare Part B) is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program. . . Growth rates have been so rapid that outlays of the program have increased 53% in the aggregate and 40% per enrollee in the last 5 years." (SMI Annual Report, pg. 3).

"The Trustees believe that prompt, effective and decisive action is necessary." (pg. 3)

Obviously, the Trustees believe that the Medicare program deserves our careful, immediate attention. The following pages present the figures that led the Trustees to their conclusions.

WHERE MEDICARE STANDS TODAY

Medicare is a huge federal program. In 1994: Medicare expenditures reached $160 billion, just over half the size of Social Security: Expenditures grew 11.4% from 1993; Eleven cents of every dollar spent by the federal government went to Medicare; Medicare represented one-fifth of total entitlement spending.

Between 1990 and 1994, Medicare grew at a 10.4% average annual rate, almost three times the 3.6% average inflation rate over the same period and twice the 5.1% average annual growth of the economy as a whole.

MEDICARE AND THE FEDERAL BUDGET

Medicare spending must be addressed as part of the solution to balancing the federal budget. That's because spending on federal entitlements—such as Medicare, Medicaid and Social Security—soared 8.4% annually on average between 1990 and 1994. Spending on discretionary, annually appropriated programs—such as defense, education and infrastructure—increased 2.2%, which is less than the rate of inflation. Coming decades will see even more pressure for entitlement growth, as the leading edge of the Baby Boom generation reaches 65 in 2011.

Entitlements are not only the fastest growing portion of the federal budget, they're already its largest component, as shown in the accompanying chart. Just over half of all federal expenditures is spent on entitlements; only a third go to discretionary programs. If we are going to balance the federal budget—and keep it in balance over the long term—entitlement reform must be part of the solution.

WHERE MEDICARE IS HEADED IF WE DO NOTHING

Under current law, Medicare is projected by the Congressional Budget Office to grow at a 10.4% average annual rate over the next seven years. In 2002, the CBO projects Medicare spending will reach $344 billion, claiming almost 16 cents of every dollar spent by the federal government.

Moreover, beginning next year, Medicare HI expenditures will exceed the program's revenues. The HI Trust fund, which at year-end 1994 held $132.8 billion, will have to be tapped to cover the projected $867 million difference.

However, according to the Trustees' Annual Report, this shortfall isn't temporary. Instead, it will balloon to be about seven times larger in 1997, which is just the following year, and more than twenty times larger by 1999. Under assumptions reflecting the most likely demographic and economic trends, 1996 will be the first year of hemorrhage that will deplete the entire trust fund by 2002—just seven years away. The optimistic set of assumptions buys us only a little time, with trust fund depletion projected in 2006. Under the pessimistic scenario, the fund is exhausted as early as 2001. In other words, within the next 6 to 11 years, it's virtually certain that Medicare will be insolvent—unless we take action.

The danger of inaction was made clear last winter when the President's Bipartisan Commission on Entitlement and Tax Reform, chaired by Sen. Bob Kerrey and then-Sen. John Danforth, issued its final report. The focus of the report was to look not years ahead, but decades ahead to assess the impact of federal budget trends. The report is sobering: Under current trends, virtually all federal government revenues are absorbed by entitlement spending and net interest by 2010, as shown in Chart 2. Deficit-financing will be required to cover almost all of the discretionary programs, including defense, health research, the FBI, support for education, and the federal judicial system.

Ten years later, the situation is worse. Growth in entitlements is so explosive that not only would the government have to borrow to pay for discretionary expenses, it would have to borrow funds to pay the lion's share of interest payments on the national debt.

MEDICARE'S IMPACT ON THE PAY STUB

In addition to detailing the projected dissipation of Trust Fund under current law, the Trustees' Report also describes the measures that would be necessary to shore up the trust fund over the next 25, 50 and 75 years. If the expenditure formulas are not altered, then preserving the trust fund can only be done through increases in the payroll tax or additional subsidies from general revenues. Table 1 illustrates the payroll tax increases that would be necessary to balance the trust fund.

CURRENT LAW

Currently, the combined (employee and employer) Medicare tax rate is 2.90%, applied to all payroll earnings. A worker earning $30,000 a year in salary or wages, for instance, is directly taxed 1.45%, or $435 annually, for Medicare Part A, the hospital insurance program. Employers then match that payment with another $435, resulting in $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don't stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums and interest), a portion of the worker's and the firm's general income taxes are also financing Medicare. The Trustees reported that $36.2 billion of general funds were used to pay Medicare Part B claims in 1994.

TABLE 1.—MEDICARE HOSPITAL INSURANCE PAYROLL TAXES

	Current law employee plus employer	To balance the HI trust fund over the next—					
		25 yrs.		50 yrs.		75 yrs.	
		Additional tax	Total HI tax	Additional tax	Total HI tax	Additional tax	Total HI tax
Tax rates (pct.)	2.90	1.33	4.23	2.68	5.58	3.52	6.42
Pct. increase over current law	.....	.....	45.9	.....	92.4	.....	121.4
Payroll earnings:							
$10,000	$290	$133	$423	$268	$558	$352	$642
20,000	580	266	846	536	1,116	704	1,284
30,000	870	399	1,269	804	1,674	1,056	1,926
40,000	1,160	532	1,692	1,072	2,232	1,408	2,568
50,000	1,450	665	2,115	1,340	2,790	1,760	3,210
60,000	1,740	798	2,538	1,608	3,348	2,112	3,852
70,000	2,030	931	2,961	1,876	3,906	2,464	4,494
80,000	2,320	1,064	3,384	2,144	4,464	2,816	5,136
90,000	2,610	1,197	3,807	2,412	5,022	3,168	5,778
100,000	2,900	1,330	4,230	2,680	5,580	3,520	6,420

Source (for all tables): 1995 Annual Report of the Board of Trustees, Medicare Hospital Insurance Trust Fund. Table 1.03, page 22. Calculations and macroeconomics simulations by the U.S. Chamber of Commerce.

To Balance the Medicare HI Trust Fund for the Next 25 Years (through 2019): According to the Trustees' analysis, the hospital insurance payroll tax would have to rise from 2.90% to 4.23% (a 46% increase) to keep the HI trust fund in balance for the next 25 years. Further, the increase would have to be made immediately and maintained through the entire 25-year period.

For our $30,000/year worker for whom $870 is currently provided to Medicare HI, this increase means an additional tax of $399, bringing total annual hospital insurance payroll taxes to $1,269. And that's before any other federal and state payroll taxes (such as unemployment insurance and Social Security) or federal and state income taxes.

However, even this increase in payroll taxes still leaves the trust fund exhausted in 2019, with the oldest of the baby boomers just shy of reaching their life expectancy. Because of this demographic bulge, balancing the HI trust fund over a longer period would require even higher payroll taxes.

To Balance the Medicare Trust Fund for the Next 50 Years (through 2044): Balancing the trust fund over the next fifty years—a span long enough to see most of the Baby Boomers through their lifetimes—would require virtually doubling the hospital insurance payroll tax from 2.90% to 5.58%. The increase would have to be made immediately and remain permanent through the entire 50-year period. Again, for the worker earning $30,000 a year, the total HI payroll tax rises from $870 to $1,674, an increase of 92.4%.

To Balance the Medicare Trust Fund for the Next 75 Years (through 2069): Balancing the trust fund over the next seventy-five years—roughly through the life expectancy of an individual born this year, and the usual period for long-term fiscal solvency—would require an immediate boost in the Medicare tax rate of 121.4%, from 2.90% to 6.42%. Total HI payroll taxes for a worker earning $30,000 a year would rise from $870 to $1,926.

MEDICARE'S IMPACT ON BUSINESS

Because it's levied on employment levels, not income, the payroll tax due remains the same through both good and bad economic times. This feature accentuates the pain of a downturn on employers, who need to pay the tax regardless of profitability. Consequently, relative to the income tax, a payroll tax can be particularly punishing to start-up firms or companies trying to weather a drop in business.

Table 2 shows the liability for Medicare HI payroll taxes that would be faced by firms of various sizes. Total liability is shown under current law and under the three tax rates computed by the Trustees to bring the HI trust fund in balance over periods of 25, 50 and 75 years.

For instance, a 25-person firm where the average worker earns $20,000 per year is currently liable for a $7,250 tax payment for the Medicare HI program (for their contribution, the workers themselves would be taxed an identical amount). To balance the trust fund over the next 25 years, the combined employee and employer tax rate would have to rise from the current 2.90% to 4.23%. Assuming that the liability continues to be evenly split between the employee and employer, the firm will face an HI payroll tax of about 2.11% per worker. For our 25-person firm, the total HI payroll tax would rise from $7,250 to $10,575 per year.

TABLE 2.—MEDICARE HOSPITAL INSURANCE PAYROLL TAX ANNUAL EMPLOYER TAX LIABILITY

[In dollars]

	Number of employees—						
	5	10	25	50	100	500	1,000
Average salary: $20,000:							
Current law	1,450	2,900	7,250	14,500	29,000	145,000	290,000
To balance Medicare HI over the next:							
25 yrs	2,115	4,230	10,575	21,150	42,300	211,500	423,000
50 yrs	2,790	5,580	13,950	27,900	55,800	279,000	558,000
75 yrs	3,210	6,420	16,050	32,100	64,200	321,000	642,000
Average salary: $30,000:							
Current law	2,175	4,350	10,875	21,750	43,500	217,500	435,000
To balance Medicare HI over the next:							
25 yrs	3,173	6,345	15,862	31,725	63,450	317,250	634,500
50 yrs	4,185	8,370	20,925	41,850	83,700	418,500	837,000
75 yrs	4,815	9,630	24,075	48,150	96,300	481,500	963,000

MEDICARE'S IMPACT ON THE ECONOMY

Raising payroll taxes to keep the Medicare Hospital Insurance trust fund afloat imposes substantial burdens on both workers and firms. To measure what that means for the economy as a whole, we conducted several policy simulations using the highly respected Washington University Macro Model from Laurence H. Meyer & Associates of St. Louis, MO.

The results are striking: The economy would suffer through sharply slower economic growth and higher unemployment in the near term. Over a longer period, the economy is saddled with a permanent loss of production and employment. As shown in Tables 3 and 4, the degree of severity for GDP and employment depends upon the increase in Medicare taxes enacted.

The tables compare each of three alternative tax simulations specified in the Trustees' Annual Report to LHM&A's June 1995 baseline forecast. To demonstrate the policy change working its way through the economy, we display the results for three of the ten years of our simulation: 1997, 2000 and 2004. This gives us snapshots of the short-term, intermediate-term and long-term impacts on economic output and employment. In each case, the imposition of the Medicare payroll tax increase takes place in the fourth quarter of 1995.

TABLE 3.—IMPACT ON GROSS DOMESTIC PRODUCT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, billions of 1987 dollars			Percent difference from baseline in given year		
		1997	2000	2004	1997	2000	2004
25 Years	4.23	−68.4	−30.1	−36.1	−1.2	−0.5	−0.5
50 Years	5.58	−137.1	−60.5	−72.1	−2.4	−1.0	−1.1
75 Years	6.42	−179.4	−79.4	−95.6	−3.1	−1.3	−1.4

As shown in Table 3, if the government imposed the most modest payroll tax increase—enough to keep the Medicare trust fund in balance for the next 25 years—production in the economy would be 1.2%, or almost $70 billion, lower in 1997 than it would have been otherwise. By 2000, the percentage-point gap between the alternative closes to within 0.5% of the baseline level of production, but that distance is maintained even ten years after the tax increase took effect.

The short-term loss in output translates into 1.2 million fewer jobs relative to what we would have had otherwise, as shown in Table 4. While this decline, amounting to about 1% of the economy's jobs, moderates over time, the economy appears to have lost over 0.5% of its jobs permanently.

Of course, all of this economic turbulence puts the Medicare HI trust fund in actuarial balance for only the next 25 years. To generate long-term actuarial balance for the full 75-year period, the Medicare payroll tax rate would have to jump from 2.90% to 6.42%, triggering even stronger economic impacts than those described above. Production in the economy would be about 3% lower in 1997 than it would have been otherwise, with the long-term loss in output projected at 1.5%. Over 3 million jobs would be eliminated in 1997 relative to the baseline, with a projected permanent loss of about 1.5% of total employment over the long term.

TABLE 4.—IMPACT ON EMPLOYMENT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
25 Yrs	4.23	−1.2	−0.6	−0.8	−0.9	−0.4	−0.6

TABLE 4.—IMPACT ON EMPLOYMENT—Continued

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
50 Yrs	5.58	−2.4	−1.2	−1.6	−1.9	−0.9	−1.2
75 Yrs	6.42	−3.2	−1.5	−2.2	−2.5	−1.2	−1.5

As dramatic as these figures are, there's good reason to believe that they are optimistic estimates. Because the macro model used in these simulations treats the Medicare payroll tax like the Social Security payroll tax, the increases in the tax rates apply only to the first $61,200 earned (in 1995, and rising afterwards). That is, the model is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly greater job loss and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

It is important to note that, even with the set of numbers presented here with its inherent bias toward underestimating the economic impact, we can see that using payroll taxes to balance the Medicare trust fund imposes severe costs on the U.S. economy. These results clearly indicate that the Medicare problem must be solved by fundamental program reform, not tax increases.

U.S. CHAMBER OF COMMERCE—MEDICARE FAX POLL RESULTS

On October 11, 1995, the U.S. Chamber surveyed 9,700 business, chamber and association members on their attitudes concerning Medicare reform and specific reform elements. Responses to the Chamber survey (nearly 10 percent responded, 68.9% of which employ fewer than 50 workers) indicated strong support for market-oriented Medicare reform comparable to the House and Senate Majority plans for Medicare reform. The complete survey and results are provided below.

Medicare is "severely out of financial balance and the Trustees believe that . . . prompt, effective and decisive action is necessary."

Medicare reform has become a focal point of the budget debate. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to the system's trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Trustee's Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We need your help. Please review the following questions on Medicare reform and FAX back your answers by close of business October 16.

1. Medicare should be modernized by adopting the market-based strategies private employers and health plans are using successfully to improve health care quality and control costs. These strategies include improving the quality of care provided to enrollees, increasing enrollee choice by expanding health plan options, and reducing the rate of growth of Medicare spending.

Agree, 98.9 percent; Disagree, 0.6 percent.

2. Two competing approaches to Medicare reform have emerged in Congress. One more limited approach addresses the Medicare Part A trust fund, delaying insolvency for an additional two years through $89 billion in Medicare savings, primarily from reducing the rate of growth in Medicare payments to providers. A second approach is more comprehensive in nature, addressing both Medicare part A (hospital bills) and Part B (doctors bills). Medicare Part A would be protected at least an additional 10 years through $270 billion in Medicare savings achieved through increased competition and reducing the rate of growth in Medicare payments to providers. Which approach would you favor?

Limited, 4.3 percent; Comprehensive, 94.6 percent.

3. Do you favor or oppose the following elements of Medicare reform?

a. Provide seniors choices between competing health plans including existing fee-for-service benefits.

Favor, 97.4 percent; Oppose, 1.6 percent.

b. Contain Medicare spending by increasing competition and reducing the rate of growth in Medicare payments.

Favor, 97.4 percent; Oppose 2.0 percent.

c. Increase managed care options for seniors.

Favor, 93.8 percent; Oppose, 4.3 percent.

d. Provide seniors a medical savings account option.

Favor, 88.2 percent; Oppose, 7.3 percent.

e. Allow provider groups (i.e., doctors and hospitals) to offer health coverage (similar to managed care networks) directly to seniors—a new proposal known as provider sponsored networks or PSNs.

Favor, 91.9 percent; Oppose, 5.7 percent.

f. Require managed care plans to provide out-of-network benefits at a higher cost to the beneficiary.

Favor, 72.4 percent; Oppose, 18.2 percent.

4. For purposes of tabulation: Type of Organization: Business, 93.2 percent; Chamber, 4.3 percent; Other, 2.0 percent. Approximate Number of Employees: under 10, 29.4 percent; 10–49, 39.5 percent; 50–99, 12.5 percent; 100–249, 8.6 percent; 250–499, 3.7 percent; 500–4,999, 3.7 percent; 5,000 +, 1.4 percent.

U.S. CHAMBER OF COMMERCE

MEDICARE REFORM—THE RIGHT SOLUTION

Medicare reform is at the crux of the balanced budget battle. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to The Board of Trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustees 1995 Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium-sized businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year old Medicare program by increasing competition while restraining the growth in spending. Key elements include:

New choices for Medicare beneficiaries.—Beneficiaries will have the right to choose traditional Medicare, as well as the right to choose from a range of private health plan options including managed care and medical savings accounts. These options will provide beneficiaries access to expanded benefits—such as prescription drugs, preventative care, vision and hearing care.

Restrained growth in Medicare spending.—Increases in Medicare spending are inevitable, given the growing Medicare population and the advance of medical technology. However, controlling the rate at which Medicare spending increases is as important to our nation's future financial health as Medicare itself is to seniors' health care. Introducing competition to Medicare through beneficiary choice of health plans will help control costs and allocate resources more fairly and efficiently than Washington bureaucrats.

Accountability.—The Republican plan allows seniors to take responsibility for making their own health care decisions. Instead of relying on a bureaucratic, one-size-fits-all approach, seniors will decide which health plans are best for them. Doctors and hospitals are also held accountable. The bill rewards beneficiaries who report incidences of waste, fraud and abuse, and strengthens penalties for anyone who defrauds Medicare.

By passing this legislation Congress will have taken timely, critical action that will avert the program's bankruptcy and preserve and protect it for current recipients and future generations.

MEDICARE REFORM

MYTHS VS. FACTS

Myth. The House and Senate Republican Medicare reform plans will cut $270 billion from Medicare in order to finance a tax cut for the wealthy.

Fact. The Medicare Trustees' 1995 Annual Report urged Congress to take "prompt and decisive action" to address the solvency of the Medicare Part A (hospital insurance) Trust Fund and the continued growth of Medicare Part B (supplemental medical insurance).

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Under the Republican plan, spending per beneficiary will still *increase* 40% by 2002 ($4,800 to $6,700).

Tax cuts provided for in the budget resolution were considered and passed independent

of Medicare. Whether or not taxes are cut, Medicare will still go broke in 2002.

Myth. It's not fair for Congress to take away benefits from seniors who have faithfully paid into the system.

Fact. The average Medicare beneficiaries receive far more than they put in. The average two-earner couple receives $117,200 more in benefits than it contributes to the program. The average single-earner couple receives $126,700 more.

By encouraging competition among private health plans based on quality and innovation, the Republican plan may lead to increase benefits.

Myth. The business community is a latecomer to the Medicare debate.

Fact. Medicare's influence is felt throughout the business community—from payroll taxes paid to finance the system to insurance premiums inflated by consistent shortfalls in Medicare reimbursements to providers who in turn shift the cost to private health plans.

Myth. Medicare is in trouble because doctors and hospitals charge too much. The Republican plan fails to address this problem.

Fact. Solving the Medicare crisis will require the participation of all—doctors, hospitals, seniors and other taxpayers—particularly the business community. Just as no one factor led to the Medicare crisis, a single-minded focus on providers won't get us out. Further, cost controls have failed miserably whenever they have been tried—particularly in the context of health care.

ECONOMIC ACTIVITY AND JOB CREATION IN PUERTO RICO

Mr. DOLE. Mr. President, as the Congress moves toward final action non budget reconciliation legislation for this year, I want to call special attention to an initiative by Gov. Pedro Rossello of Puerto Rico which seeks to establish a wage credit-based economic program as an alternative to the current law section 936 tax credit.

Neither the House nor Senate was able to give the Governor's proposal an extensive examination before either body adopted revisions to the section 936 credit. Together with my colleague from New York, Senator D'AMATO, I was pleased to ensure that the Senate version more appropriately recognizes the positive impact that many U.S. companies have on the Puerto Rican economy and the jobs they provide.

I commend Governor Rossello's efforts to enhance economic opportunity in Puerto Rico through the creation of new jobs, and I would hope that the Congress will continue to give serious consideration to the Rossello program as an alternative to programs such as under section 936. It is important to ensure that any program focused on Puerto Rico will create new jobs and encourage self-reliance and economic growth.

ANWR

Mr. LIEBERMAN. Mr. President, the Arctic National Wildlife Refuge has been managed as one of the great wilderness systems on this continent since the Eisenhower administration. It is on par with other great places in our natural history, including the Grand Canyon, Yellowstone, Jackson Hole, the Badlands, Glacier Bay, Denali, and others. Opening the Arctic Refuge to oil and gas development violates our stewardship commitment to future generations, fails to use common sense about balancing the budget, and destroys a highly threatened piece of our American heritage. This is a unique and treasured land that must serve our entire Nation for the next century, not just a few for the next few years.

Unnecessary development of significant Federal lands like the Arctic Refuge is not the way to balance the budget. The amount of oil that can potentially be recovered from the Arctic Refuge is simply too small to affect our energy security, and too destructive to the environment, to be worth it. The U.S. Geological Service estimates a 95-percent chance of only 148 million barrels of oil in the refuge. The Congressional Budget Office assumed 3.2 billion barrels in its budget scoring of oil and gas leases, more than 20 times this recent USGS estimate. Worse yet, CBO assumed oil prices of $38.60 in 2000, compared to Energy information administration estimates of only $19.13—less than half.

And, it is possible that 90 percent of the lease revenues could go to Alaska instead of balancing the Federal budget. Under the most favorable scenario, only 50 percent of the revenues go to balancing the budget.

Clearly, the $1.3 billion we have been promised by CBO in return for developing this pristine area is a massive fiction, like so many other bogus asset sales in this budget. The OMB has estimated oil and gas revenues more realistically to be between $750 million and $850 million, assuming Alaska does not sue for a 90-percent split. If the State does, these revenues fall another 40 percent.

We all hope for another strike like Prudhoe Bay. But the simple reality, based on the very best geological science and economics available today, is that the next Prudhoe Bay is expansion of Prudhoe Bay itself, and the continued implementation of national energy conservation programs. The next major source of energy is not a long-shot wildcat strike in an undeveloped Alaskan wilderness area, and it is incorrect to suggest otherwise. And it is ironic that we would consider opening this refuge to oil drilling now that the oil export ban will be lifted, as the House and Senate have voted to do. If the ban is lifted, a substantial percentage of the oil that is recovered, if any, would be exported to Asia, according to the Cato Institute, the Congressional Research Service, and others. The Arctic Refuge oil supplies would do almost nothing to help our energy security.

Make no mistake, environmental impacts to the refuge would be severe and irreversible. The Arctic National Wildlife Refuge includes the calving grounds for one of the largest caribou herds in North America, the porcupine herd of 152,000. It supports several thousand native Americans whose hunter-gatherer culture depends directly on it today as it has for 20,000 years. Over 200 species of plants and animals thrive in the refuge, including Muskoxen, Snow Geese, Arctic Foxes, Arctic Grayling and Arctic Char. It is the only natural area in the United States with all three species of North American bears—the black bear, the grizzly bear, and the polar bear. It is one of the most pristine areas in our Nation, untouched by development, and the last of its kind. Environmental studies repeatedly show that oil development is not compatible with the protection of these resources. Biologists from Federal and State agencies and universities conclude that oil development will harm the calving success of the caribou herd, and reduce its long term numbers very significantly.

The remaining 90 percent of the Alaskan North Slope is already open to oil and gas leasing. Is it too much to protect what little we have left? Let us honor our history of conservation, and the future of generations to come, by protecting this last Arctic Refuge.

I ask unanimous consent that a letter from the President on this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 26, 1995.

The Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Washington, DC.

DEAR JOE: Thank you for your letter today seeking my views on striking the provision in the reconciliation bill that would open the coastal plain of the Arctic National Wildlife Refuge [ANWR] to oil and gas drilling.

Because you stated that the Senate is expected to vote on that motion in the near future, let me be clear: I will veto any reconciliation bill that opens ANWR to drilling. Consequently, I strongly support your and your colleagues' efforts to remove this provision from the bill. In my view, this is one of the most significant environmental votes facing Congress, posing a clear choice between protecting a unique, biologically-rich wilderness and pursuing a misquided energy policy.

I appreciate and support your efforts to preserve ANWR.

Sincerely,

BILL.

Mr. LEVIN. Mr. President, I voted against the combined Harkin and Dorgan amendments. The constraints imposed by the rules under which the budget reconciliation bill is being considered create an absurd situation in which important, complex, and difficult amendments are decided without debate. In addition, because a long stack of votes are occurring at 7½ minute intervals, there is little time to properly consider each provision. This is exacerbated when amendments are quickly patched together with little warning on the floor.

In this case, I oppose the capital gains portion of the Dorgan-Harkin combined amendment. While I do favor capital gains reform, focused on long-term capital gains investment, in my view, the provision goes too far by imposing a lifetime limit of $250,000 on capital gains deductions. The Tax Code

is complex enough without adding a restrictive difficult to administer, lifetime provision such as this.

I do support the Harkin portion of the amendment which attempts to further restrict the so-called Benedict Arnold loophole.

Because the two amendments were joined together on the Senate floor, I could not vote on one and against the other. Therefore, I voted no on the amendment.

Mr. FRIST. Mr. President, I would like to speak briefly in support of the antitrust reform provisions of section 15021 of the House Medicare bill. While these provisions are not in the Senate Medicare bill, they are important, because they permit doctors to form Provider Service Networks without having to go through an institutional intermediary such as another HMO or an insurance company. I urge my colleagues to support the provisions when this bill goes into conference, as they are modest antitrust law reforms that will improve the quality and lower the cost of our health care system.

I would first like to discuss how the House Medicare bill defines a Provider Service Network (or, as it is more commonly known, a "PSN"). In the House Medicare bill, a PSN is one of the new organizations that provides Medicare beneficiaries with an option called MedicarePlus. That option allows a beneficiary to select a health plan called a MedicarePlus Product that would be offered by a MedicarePlus Organization. A MedicarePlus Organization is a private sector organization, such as an HMO, that offers a health plan that meets Federal Medicare standards. A Provider Sponsored Organization is a type of MedicarePlus Organization which is owned and operated by affiliated providers, such as hospitals and physicians. A PSN is an organization owned and operated by providers that contract with a Provider Sponsored Organization to provide services to Medicare beneficiaries.

Current antitrust law effectively makes it automatically illegal for a group of physicians to set up a PSN or Provider Sponsored Organization, yet permits insurance companies, HMO's and other nonphysicians to do so. This does not make sense.

Why do we want to reform the antitrust restriction so that physicians can form PSN's and directly compete with insurers and HMO's for Medicare beneficiaries? Because permitting physicians to do so will bring physicians to the table and will encourage increased competition that will provide Americans with better quality health care at a lower price. By permitting physicians—rather than just accountants—to oversee the treatment systems, Medicare beneficiaries will receive better quality care. By removing an insurance company's significant administrative costs from the picture, Medicare beneficiaries will likely see more of their health care premium dollars go to patient care and less to overhead.

It should be made clear that section 15021 of the House bill does not exempt physician networks from antitrust law. I, for one, would oppose it if it did. I too believe that physicians must be held accountable under the antitrust laws if they in any way engage in anticompetitive price fixing.

Under the House Medicare bill, physician networks would remain subject to all of the antitrust statutes that currently exist. The only limitation on antitrust enforcement is that physician created networks which meet the standards for PSN's (as set forth in section 15021(b)(6) of the House bill) would not be considered automatically unlawful. If the formation or operation of these networks can be shown to harm competition, then the DOJ, FTC, or a private party could challenge them. This is precisely the same rule which applies to the formation and operation of joint ventures in other industries in America. This provision does not exempt physician networks from the law. It holds them accountable for their actions, while giving them the opportunity to compete.

I again urge all of my colleagues to support the antitrust provisions of section 15021 of the House Medicare bill.

Mr. HATCH. Mr. President, while we are considering the manager's amendment to S. 1357, the Balanced Budget Reconciliation Act, I want to take this opportunity to comment on the health provisions contained within the bill and on some of the changes made therein.

First of all, I know there is a great deal of consternation about the impact of the reductions in spending growth for Medicare and Medicaid contained within this bill.

Medicare and Medicaid have been tremendously successful programs by anyone's measure, providing life-saving and life-sustaining services to literally millions of persons over the last three decades. These programs need to be continued.

What we cannot continue, though, is the high rate of growth in these entitlement programs. This growth, quite simply, is contributing significantly to the deficit situation which is bankrupting our country.

Mr. President, there is no disagreement on either of these points.

As I see it, the question before us today is not whether to act but, rather, how to act.

The question is not "Why?," as some assert, but rather the more critical "Who, what where, when, and how?" we bring these programs under fiscal control while preserving vital services for the people who need them.

It is clear that we are poised to act on a bill with very far-reaching ramifications. This is not a responsibility I take lightly.

Indeed, the prospect of reforming programs which have become such an integral part of America's health care delivery infrastructure over the past 30 years is a daunting one. The implications are enormous—enormous for all participants in the health care system, be it patients or those who provide services to patients.

Consider how intertwined the Medicare and Medicaid programs have become with our health care delivery system.

A whole generation of facilities has been built based on funding from the Federal Government. A whole generation of health care professionals has been trained with funding from the Federal Government, with many academic health institutions continuing to rely heavily upon Medicare graduate medical education funds for their viability. Facilities providing care to the underserved in both rural and urban areas count on Medicare revenues to keep from closing their doors. And, coverage policy in many private health care plans and our military health care system have been designed around Medicare policy.

Viewed from another perspective, more than a generation of Americans has come to rely on the vital services provided under Medicare and Medicaid. This is true for our seniors and disabled who are eligible for Medicare, and for the pregnant women and children, the aged, the blind, and the disabled who receive services under Medicaid.

The prospect of the reforming this system can be threatening to all I have mentioned, because it represents a change, a change from the norm we have all come to accept.

But I ask you to consider how different the America of 1995 is from the America of 1965. The health care of today is very different from that of 30 years ago. We have come a long way. Life expectancy has improved dramatically thanks to the fruits of medical research and technology. Fee-for-service medicine is no longer the only option for delivery of services.

But we have paid a heavy price for those improvements. Continued increases in health care costs run rampant have fueled the deficit, and have priced health care out of the reach of many, with a concomitant impact on the Medicaid roles and the States' ability to provide services.

I implore my colleagues to see the changes in this bill today as an opportunity to make the system better and more responsive to our national needs, needs which extend beyond health care services to, indeed, the health of our country as a whole.

The deficit situation cannot be ignored any longer. It is unfair to our children, and to their parents and grandparents.

The alternative to change is foreboding. The costs of these entitlement programs is running out of sight, endangering the future viability of the programs as well as the Federal and State budgets. By all recognition, Medicare's hospitalization trust fund could go bankrupt, starting as early as next year. The work of the Medicare

Trustees, reinforced by testimony the Finance Committee heard from the former Chief Actuary of Medicare, Guy King, indicates that we will need at least $165 billion for the hospitalization fund alone to stave off bankruptcy by 2002. Payment for physician services under Medicare, funded 68.5 percent from tax revenues, is rising in double digits.

Medicaid spending also remains troublesome.

The Congressional Budget Office has estimated that the Federal share of Medicare will grow over 10 percent a year between now and 2002, about three times the projected rate of inflation.

The changes made in S. 1357 are a good start to resolve these problems.

For Medicare, the bill provides greater opportunity for seniors and the disabled to participate in innovative coordinated care programs, many offering the possibility of benefits beyond the traditional Medicare package such as preventive services, eyeglasses, and prescription drugs.

It is clear that the health care marketplace has been undergoing dramatic changes over the last several years and that further changes will occur.

As new types of provider organizations and reimbursement practices have evolved over recent years, many observers note that the traditional doctor-patient relationship is being redefined.

There are complex and novel issues presented by the introduction of many new nonphysician decisionmakers in the care of patients.

Tensions often are apparent between the twin goals of providing high quality care and providing this care at reasonable costs. That became evident in our consideration of S. 1357, as we struggled to make certain that the bill afforded Medicare beneficiaries the opportunity to participate more in the medical marketplace, while still maintaining a marketplace which allows doctors, nurses and other health care professionals to continue to practice traditional medicine.

There is no doubt that coordinated care offers abundant opportunities for our citizens, including those who participate in the Medicare and Medicaid programs, to receive quality health care services in the most cost-effective setting.

On the other hand, as we enter this new era in which managed care becomes the norm, it is imperative that the overriding goal be to save lives, not dollars.

What I am saying is that managed care is an important option in the health care delivery continuum, but so is traditional medicine.

Fee-for-service medicine must be maintained as an option for patients who are more comfortable with that kind of care, as well as for providers who do not wish to join the managed care environment.

One of the major innovations in this reconciliation bill is that it will encourage the further participation of Medicare enrollees in managed care plans. A key feature of the legislation is that it allows individuals to choose the type of health care delivery system which best meets their needs. This bill allows American citizens, not the Federal Government, the freedom to make this choice.

I think it critical that Medicare beneficiaries be allowed to choose the provider of their choice, if this is important to them. In fact, the bill contains a provision I authored which will make certain that beneficiaries are provided with the information they need to gauge whether the Choice plan they contemplate joining allows them this freedom.

At the same time, I do not think it is fair for the Congress to require that all plans mandate this option, since participants in Medicare do have flexibility under the current bill.

I also want to note, in turn, that health care providers will face individual choices with respect to which type of health care delivery system best meets their career plans. Some will prefer a managed care environment, while others will not. They, too, must have the freedom to make that choice.

And that freedom must not be in name only.

For some time, I have been concerned that we are destroying the incentives providers have to practice good medicine in America. Liability concerns, cost constraints, regulations which impede technology development, change in medical education reimbursement—all these can have a stifling effect on the ability of health care professionals to be satisfied with the work environment.

That is one reason I was so pleased about the House inclusion of a medical liability reform proposal. Medical liability reform is something I have been fighting for for some time, and I am pleased at the House action.

We had a good deal of debate about this "creative tension" in the health care delivery system during development of the physician service network (PSN) provision contained in this bill. Doctors and hospitals were rightly concerned that because of time-consuming state certification requirements, they would not have the ability to form networks to compete as providers under the new choice plans.

On the other hand, insurers were equally concerned that we not create a system which put them on an uneven footing, by allowing certain organizations to escape the solvency requirements and antitrust requirements in current law.

The challenge we face is to find the right balance between two competing interests—our intention to provide seniors with real health care choices, especially in rural areas, and our interest in making sure that those who provide that care have the incentives to do so, but to do so with accountability. I am satisfied that the bill before us meets these goals, but I will be monitoring its implementation carefully to see that it continues to measure up.

The bill before us today also provides beneficiaries with the option of establishing medical savings accounts, something I have long favored.

Under the proposed legislation, Medicare recipients would have new options, including the choice to remain in the traditional Medicare program, enroll in a health maintenance organization or select a high-deductible health insurance plan with a Medical Savings Account [MSA].

I support the MSA provisions in the pending bill and hope they will remain in the final measure as signed into law.

MSA's are personal, individual accounts used to pay for routine and preventive health care and are combined with high-deductible, catastrophic health insurance that pays for major expenses. Beneficiaries pay all medical bills up to the deductible with the MSA and out-of-pocket funds. Catastrophic insurance pays all expenses above the deductible.

Among the benefits of MSA's for seniors will be that they will have first-dollar coverage for such services as primary and preventive care, in contrast to Medicare, which has deductibles and copayments. Seniors could use their MSA's for items not covered by Medicare, such as eyeglasses and prescription drugs. In addition, patients would have incentives to make prudent choices because they would have a larger voice in deciding how their health care dollars were spent.

Medical Savings Accounts incorporate sound economics while encouraging individual responsibility and choice.

Mr. President, I want to point out that, contrary to many reports, the Balanced Budget Reconciliation Act does not cut Medicare spending. It does not reduce benefits. It does not breech our contract on Medicare.

And contrary to the assertions of many, Medicare spending will increase each year under this budget. It will rise from $181 billion this year, to $277 billion on fiscal year 2002, a $96 billion or 53 percent increase. Expressed differently, Medicare benefits will increase from an average of $4,800 per person this year, to $6,700 in fiscal year 2002, hardly a cut.

For Medicaid, S. 1357 allows a 5 percent rate of growth over the next 7 years, with the program rising from $157 billion this year to about $220 billion in 2002. I don't believe this increase of 40 percent can be termed a "cut", either.

Many of my constituents have visited with me, offering both praise and criticism about the provisions in this bill.

On a positive note, I have received much positive feedback about the provisions in this bill which inject a greater measure of private market competition in Medicare. I have received warm endorsement of the provisions in the bill which allow the States to tailor

their Medicaid programs to their own individual needs. In particular, many in my home state are pleased about the opportunity to work cooperatively together with our Governor to craft a Medicaid program which meets the needs of Utahns, not the needs of those in states across the Nation.

I have been troubled for some time about the inflexibility of the Medicaid program, and the innumerable, burdensome requirements placed on the programs at the Federal level. This has served to drive up costs, as well as to hamstring innovators such as our Governor, Mike Leavitt, who have some wonderfully creative ideas on how to deliver services in a cost-efficient manner.

I recall the story Governor Leavitt related to me about the Medicaid waiver he was trying to submit to the Health Care Financing Administration. Utah had determined that it could provide services to more citizens if it restricted the dental benefit to children and adult emergencies. HCFA turned him down cold.

Later, at a briefing with my staff, HCFA said they had not turned any states down on coverage requests such as this. When queried, they admitted that they had told the state not even to submit the request, because it would be turned down.

This bureaucratic gamesmanship is a prime example of why Utah should not have to seek approval from Washington of its State Medicaid plan. The changes made in this bill, which will allow Utah to design its own coverage program without a federal waiver—with continued coverage for the aged, disabled, and pregnant women and children—are in important step and a needed step.

That being said, I want to acknowledge openly and frankly my understanding of the tremendous unease the prospects of major change cast upon our citizenry.

This is a natural reaction to change.

I make the pledge that if we receive evidence that these reforms are not working, I will do everything I can to seek an immediate legislative solution in this Chamber.

I want to make that perfectly clear.

I, too, am not completely satisfied with each and every provision, as I will discuss in a moment. I am hopeful that in the conference we can improve these provisions.

But first of all, I want to discuss how the changes in this bill affect Native Americans. This is a subject in which I have a great interest.

NATIVE AMERICANS

Mr. President, I am especially pleased that the pending legislation contains needed provisions, which I sponsored in the Finance Committee, relating to the impact of Medicare and Medicaid reform on Native Americans.

As we debate this important legislation, I want to be sure that we do not lose sight of how these reforms will affect Indian Country.

And, I would point out to my colleagues that Congress has recognized the severely depressed health conditions existing among Native Americans. But there is a need to do more.

The current health status of Native Americans and Alaska Natives remains disproportionately low compared to the rest of the population. The Native American (IHS Service Area) age-adjusted mortality rates remain considerably higher than for the rest of the U.S. population.

Between 1989 and 1991 the mortality rates for Native Americans were 440 percent greater for tuberculosis; 430 percent greater for alcoholism; 165 percent greater for accidents; 154 percent greater for diabetes mellitus; and 46 percent greater for pneumonia and influenza.

These rates are simply unacceptable. The bottom line is this: per capita spending for Indian health care is approximately one-half that of the national average. In 1992, the U.S. National Health Expenditures per capita was $3,155 compared with an IHS Health Expenditures per capita of $1,489.

The Native American provisions contained in this bill serve to reaffirm our Nation's commitment with respect to Medicare and Medicaid reimbursement for Indian Health Service programs.

In effect, these provisions will help ensure that Indian health care continues to improve even as the Medicare and Medicaid programs undergo reform. Given the limited budget within which the Indian Health Service (IHS) and tribes must operate their health care programs, third-party income such as Medicare and Medicaid collections allow the IHS to supplement their already limited Federal appropriation.

The IHS estimates that it will collect $54,250,000 in Medicare and $120,750,000 in Medicaid reimbursements in fiscal year 1995. These collections allow the IHS and tribal programs to improve the conditions of their facilities and free-up financial resources to provide critical health care services which they could not otherwise provide.

In fiscal year 1995, Medicaid funds were used to pay the salaries and benefits for 1,379 FTEs. These staff positions include physicians, nurses, pharmacists, lab technicians, and support staff. The loss of Medicaid funds would mean that these health care providers would have to be laid off due to a lack of money to pay salaries and benefits.

The impact of the loss of this money would be tremendous because these funds supplement direct clinical care to Native Americans and Alaska Natives. It would result in the closure of critical inpatient services in some of the most remote parts of the country. The outcome would be truly devastating to the already poor health status of Native Americans.

Under existing law, IHS facilities like other health care providers are eligible to receive Medicaid and Medicare payments for services provided to eligible Indians. The provisions I sponsored will ensure that these arrangements remain in place in the new world of reformed Medicaid.

In addition, my language expands coverage to tribally owned and operated health care facilities as well as urban Indian organizations that serve Medicaid eligible Indian patients.

Approximately 1.4 million Native Americans receive health care services from the IHS and from Indian owned and operated health care facilities.

In an effort to address the poor health conditions of Native Americans and because of the fact that Indian health programs are almost entirely dependent upon Federal appropriations, Congress made two exceptions to allow the IHS and tribal health facilities to participate in the Medicare program and use their reimbursements to improve facility conditions.

First, Congress made an exception to the general ban against payments to Federal providers of services for IHS and tribal health providers pursuant to Section 401 of the Indian Health Care Improvement Act and Section 1880 of the Social Security Act.

Second, Congress made an exception to the requirement that the IHS and tribal health facilities meet all of the conditions and requirements for participation in the Medicare program, as long as those facilities provided the Secretary with a plan for achieving compliance.

Pursuant to Section 1880 of the Social Security Act, hospitals and skilled nursing facilities owned by the IHS may receive reimbursement from Medicare for services provided to eligible Indians.

Pursuant to Section 1861(aa)(4)(D) of the Social Security Act outpatient facilities that are owned by the IHS are eligible to be Federally Qualified Health Centers and participate in the Medicare program but only if those facilities are operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations.

Tribally-owned health care facilities are able to participate in the Medicare program subject to the same conditions and requirements as any other provider in the State in which those facilities are located.

As this bill moves through the legislative process, I hope these provisions can be maintained, because I believe we should do all we can to enhance the level of health care provided to Native Americans through the Medicare and Medicaid programs. I thank my colleagues on the Finance Committee and the Committee on Indian Affairs for their support and assistance in developing these important provisions.

Another issue in which I have a great interest is the Federal effort to prevent health care fraud.

FRAUD AND ABUSE

The problem of health care fraud and abuse is certainly one of the most troubling aspects in our Nation's health care delivery system. By most estimates, the costs of health care in the

United States approach $1 trillion annually. By the turn of the century, the figure will exceed $1.5 trillion annually, consuming up to 16 percent of the Nation's gross domestic product.

Even by most conservative estimates, billions of dollars are lost to waste, fraud and abuse. Health insurance experts, the FBI and other agencies agree that fraud and abuse account for as mush as 5 to 10 percent of total health care expenditures. As much as $27 billion taxpayer dollars are lost to fraud and abuse in the Medicare and Medicaid programs. These losses are clearly not insignificant.

Clearly, the Federal Government must take steps to put a halt to the deliberate and unscrupulous act of defrauding individuals, health care providers, and State and Federal Governments in the provision of health care.

The anti-fraud and abuse provisions contained in this legislation essentially represent the provisions contained in S. 1088, which was developed by our colleague from Maine, Senator COHEN.

I am extremely pleased that the final compromise addressed my concerns about provisions in S. 1088 which would have authorized the use of health care fraud related fines and penalties to finance investigative and enforcement efforts of the HHS IG's Office and efforts at the Justice Department.

I have long opposed this so-called bounty hunter provision, as I strongly feel it would create an incentive for Federal investigators to forgo prosecution or exclusion where warranted in favor of large civil penalties that would provide additional funding for investigators.

Under the new language as contained in the bill, all penalties, fines and damages collected will be deposited into the Medicare trust fund. Under this arrangement, the original purpose to strengthen the financial solvency of the Medicare program is further achieved. I strongly believe this approach serves to address my concerns as well as ensuring the integrity of the anti-fraud and abuse provisions.

I do have remaining concerns, which I will work to address in conference.

First, I would note that the bill does not uniformly punish those who would attempt to defraud a health care plan or provider or those who would conspire with others to do so. Nor does it appear to criminalize attempts or conspiracies to embezzle.

I think it is vitally important that those who conspire with others to cheat our health care plans should be punished to the full extent of the law. Otherwise, a conspiracy to defraud or embezzle will be uncovered before the crime is actually completed. Those situations should be addressed by this statute.

Second, while we provide for the forfeiture of property, real or personal of persons convicted of health care fraud, it is unclear whether the bill would also permit the forfeiture of the fraudulently obtained proceeds. While it is certainly important to obtain fraudulently obtained property, it is even more vital to divest criminals of their unlawfully obtained proceeds. We must be careful to craft legislation that will destroy the financial incentive for criminals to abuse our health care system.

In the same vein, the bill only permits forfeiture of property from persons actually convicted of a crime. Thus, if someone perpetuates a fraud against a health care plan or provider, and then flees outside the jurisdiction of the United States, it may be difficult to obtain their ill-gotten gains remaining in this country unless we permit the government to bring a civil forfeiture action.

Civil forfeiture must be available even if a conviction cannot be obtained. This is an important, complex issue. Indeed, I am currently working on legislation that would affect forfeiture law, and want to be able to craft responsible language.

I also have several technical concerns with the fraud and abuse provisions. For example, section 7141 punishes those who commit health care fraud with a maximum 10-year penalty. If serious bodily injury results, the criminal can be punished for any term of years.

Unfortunately, the statute does not appear to address a crime leading to someone's death. Serious bodily injury is not defined to include death, so the possibility of a death occurring as a result of the crime must be taken into account.

Finally, we need to ensure that this bill does not improperly extend Federal criminal jurisdiction and that it conforms to accepted investigative demand procedures. In light of the Lopez decision issued by the Supreme Court last term, we must be careful to draft legislation that contains the proper legislative nexus to the Constitution's commerce clause. We must put an end to the days of federalizing crime without giving any thought to the legitimate prosecutorial interests of the States.

We must also guarantee that appropriate, established, investigative demand procedures are followed. The administrative subpoena is a powerful tool that should not be used unless accepted procedures are followed.

In addition, I have continuing concerns about the provisions relating to the anti-kickback statute. I have been concerned about the discount exception to the statute as currently interpreted, and the discount safe harbor regulation which is, in effect, impeding the implementation of commercially reasonable and non-abusive marketing practices.

One such practice is the combining for discount purposes of various products and/or services supplied by a company to a provider. Another example involves the provision of discounts based upon the volume purchased during a fixed time period.

Hospitals and health plans purchase medical devices, pharmaceutical products and other health care products and services from one manufacturer, and thereby receive a percentage price discount on the total products purchased. The discount is allocated on a flat across-the-board basis for all products. Similarly, hospitals and health plans routinely purchase all products used for treatment of a particular disease from a supplier, at a fixed rate for all products.

In addition, manufacturers want to be certain that they can lawfully bundle products into a single procedure kit which contains all items needed to perform a specific procedure or treatment, and to offer the kit for purchase at a discount. Without the discount exceptions, such arrangements can be construed as a sale of one product tied to another and, therefore, a kickback under Medicare law, even when practiced lawfully in the treatment of patients.

These arrangements are appropriate and create no potential for abuse so long as there is adequate disclosure of the financial parameters of these arrangements so that the Medicare and State health care programs are able to ascertain cost data for purposes of revising payment rates and are able to evaluate the impact of these arrangements.

While these arrangements may differ from pure time-of-sale price discounts on a single item or service, they are appropriate in the current health care environment.

Discount arrangements are, in fact, commonplace in the private sector and have resulted in substantial savings to hospitals, managed care companies and, most importantly, consumers.

Unfortunately, current Medicare law is vague in this area and implies potential illegality of certain innovative purchasing practices common in the private sector. These types of purchasing arrangements enable hospitals and managed care companies to purchase medical supplies and drugs at a discount when they are sold as a package or in volume.

The success of Medicare reform relies heavily on the ability of health plans to replicate successful private sector practices—including innovative arrangements between providers and drug and device manufacturers that result in savings to beneficiaries and ultimately to the Medicare trust fund.

Accordingly, it is my desire to clarify that these innovative purchasing arrangements are allowable under the existing Medicare antikickback rules. Although we have made some progress in this respect in the bill as reported by the Finance Committee, it is my desire to pursue clarifications in all these areas as the bill moves forward.

CHIROPRACTIC SERVICES

During consideration of the reconciliation bill an the Finance Committee, I offered an amendment to allow chiropractors to practice their profession

under Medicare to the full extent of the scope of practice permitted under State law. The Committee agreed to accept this amendment subject to working out the financing provisions with the Congressional Budget Office. However, due to the press of business, it has not yet been possible to complete the task of fine tuning a mechanism that would achieve this goal without significantly increasing the cost to the Medicare program.

This is unfortunate because I believe that the time is ripe to discard the antiquated restrictions on chiropractors that permeate current law. Today, chiropractic is recognized by the medical profession, and, indeed, a recent government report concluded that chiropractic treatment is among the most effective for the treatment of certain 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 only note that this is a highly specialized segment of the health care industry; where utilization controls should not be an issue. In addition, while the Congressional Budget Office cites large growth in O&P since 1990, part of this growth is due to parenteral and enteral nutrition [PEN], urological supplies and other non-custom devices which would have not been covered by my amendment.

I am hopeful that the final bill can include the one percent update.

ABSTINENCE EDUCATION

Providing education to young adults about the value of abstinence is extremely important and I applaud the effort that this bill makes in this area. Many of us share the belief that abstinence is the best and healthiest method for our young people to avoid the risks associated with early sexual activity—dangers that have both physical and psychological manifestations.

I am concerned, however, that the language defining abstinence education in section 7445 of S. 1357 may be interpreted by some as being so restrictive that some excellent abstinence-based programs, including some programs operating in my state, would not be eligible for funding. This issue turns on the interpretation of the term exclusive purpose in section 7445(c)(5)(A) and whether this will be read as encompassing programs, such as operated by the Community of Caring in Utah, for which abstinence is a primary goal. This program exists in 50 schools in Utah and has been successful in achieving abstinence by teaching and reinforcing it within the values of caring, respect, responsibility, trust and family. I would hope that a family values-based program this effective would not be excluded from funding.

PRESCRIPTION DRUG REBATES

Many of us opposed the Medicaid drug rebate program when it was first enacted in 1990, although I recognize that it has provided a valuable source of revenue for financially strapped State Medicaid programs. The theory behind this program is that it would constrain the costs of pharmaceuticals by guaranteeing State Medicaid programs the best price.

Because of the growing move toward Medicaid managed care, with its inherent cost containment strategies, the importance of the rebate program is now overstated.

I have been concerned that rebates are anticompetitive and constrain the ability of hospitals, HMOs, and other private sector purchasers of prescription drugs to negotiate discounts from pharmaceutical manufacturers. In addition, overly high rebates can act as a disincentive to provider participation in Medicaid, as well as to the pharmaceutical research and development necessary to foster breakthrough drug products.

Under the current Medicaid program, states receive a manufacturer's best price for a drug, plus an additional rebate reflecting any differences between price increases and inflation—as measured by the Consumer Price Index. Under the original Finance bill, the Federal rebate program would have been retained for 3 years, after which the States could choose whether to implement programs on their own. An amendment adopted in committee removed that sunset.

I believe it is important to clarify what was intended by an amendment that I offered at the Senate Finance Committee on the topic of prescription drug rebates.

Currently, several States require rebates from prescription drug manufacturers over and above what is required under the Federal Medicaid program. The bill that we will ultimately send to the President will also be likely to retain the authority for States to continue to collect rebates. My personal belief, and I think that most of my colleagues on Finance would concur, is that this authority should be along the lines of the original Finance Committee bill which included a transition period of 3 years allotted to States to integrate drug rebate programs into their overall health care programs.

At the Finance Committee there was discussion as to whether the language adopted would preclude States that choose to opt out of the Medigrant Program from collecting supplemental or additional rebates on top of the rebate amount authorized under the program. The Senate Finance Committee voted that States would be precluded from collecting unlimited rebates. At the committee level the point was made that the pharmaceutical industry is expected to spend about $15 billion on research and development in 1995 alone. States may choose to opt out of the drug rebate program but will be prohibited from collecting unlimited rebates from this research and development-intensive industry.

FDA EXPORT

I was pleased to learn this morning that the House adopted as part of its reconciliation bill legislation I authored with Representative FRED UPTON and Senator JUDD GREGG (H.R. 1300/S. 597) a bill which would dramatically expand export opportunities abroad for American manufacturers of pharmaceuticals and medical devices. That bill, the FDA Export Reform and Enhancement Act of 1995, will both create jobs in the United States, as well as provide incentives for us to enhance our technological capacity to develop new medical products.

I intend to work concertedly to ensure that this provision becomes law, and I commend my colleagues in the House, especially Representative UPTON, for their work in this area.

REIMBURSEMENT FOR EXPERIMENTAL MEDICAL DEVICES

On June 22, 1995, Senators GREGG, FRIST, KENNEDY, KASSEBAUM, GRAMS, WELLSTONE, CHAFEE, HUTCHISON, D'AMATO and I introduced the Medical Devices Access Assurance Act of 1995. A companion measure, H.R. 1744, was introduced in the House by Chairman BILL THOMAS, the first in Congress to step forward in this area.

This legislation addresses two serious threats to our health care system: restricted access for our senior citizens to the most advanced experimental medical technologies and our country's loss of clinical research activities to overseas facilities. This bill helps harmonize our reimbursement policies for experimental medical devices with those governing payment for experimental drugs. This is good policy that is fair and advances the public health.

Because of "Byrd rule" considerations we are not able to pursue this matter in the bill today, even though the measure is included in the House-passed bill. It is my intention to pursue this legislation vigorously throughout the remainder of this congressional term, either as part of the reconciliation bill, or on the Medicare/Medicaid technicals bill which I understand the Chairman intends to consider later this year.

OXYGEN THERAPY

As part of the Medicare reform legislation, the Finance Committee reported a 40 percent reduction of the home oxygen benefit payment. In contrast, the House Ways and Means Committee reported a 20 percent reduction.

While I recognize that these provisions, to a certain extent, mirror Health Care Financing Administration efforts under an inherent reasonableness proceedings, nevertheless I am concerned about the impact of such a significant reduction on patients in Utah who require a higher level of service, particularly those patients in rural or remote areas of the State.

In addition, I have met with numerous small home oxygen providers who believe that with their slim profit margins they cannot possibly sustain a 40 percent payment reduction. And for many patients, the small provider may be the only nearby source of home oxygen therapy.

As the legislative process moves forward, I hope that we can reexamine this proposal.

HOSPICE CARE

I would also like to mention my deep interest in making sure that Federal support for hospice care remains as strong as possible.

Hospice care provides palliative care for terminally ill individuals with a life expectancy of 6 months or less if the terminal illness runs its normal course. Specifically, hospice care provides relief of pain and uncomfortable symptoms through a specially qualified interdisciplinary group of medical, psychosocial and spiritual professionals. Besides being certified as terminally ill, an individual must be entitled to part A of Medicare in order to be eligible to elect hospice care under Medicare. Under the Medicare hospice benefits, a terminally ill individual can receive comprehensive high-quality care at a lower cost.

While I recognize the need to hold back the growth in spending for all components of the Medicare program, I am concerned that the effective and efficient service of hospice care currently available to Medicare beneficiaries may be compromised by the proposed 2.5 percent budget reduction.

Hospice care is in effect comprehensive managed care for a specialized population, the terminally ill, since the current Medicare hospice benefit is reimbursed on a fixed, all-inclusive per diem basis.

As a recent Lewin-VHI study indicated, "efforts to control Medicare expenditures [that] discourage hospice providers from offering their services to Medicare beneficiaries, Medicare expenditures would likely increase." We must monitor this situation closely to assure that the benefits of hospice care are not undermined by this proposal.

In addition, I also think we need to clarify how the hospice benefit will interact with the managed care opportunities provided in both the House and Senate bills. The House language is explicit in stating that Medicare contractors will assume full financial liability for services other than hospice care. The Senate language is silent on this point and I am hopeful this can be addressed in conference.

HOME HEALTH CARE

I am also concerned about the impact of this legislation on the provision of home health care.

As my colleagues are aware, home health has long been a personal priority of mine. I have seen time after time how gratified Utah families are to be able to care for their loved ones in the home. This compassionate, caring alternative to institutionalization can make all the difference in the lives of those who are ill.

At the same time, I recognize that the rapid growth of these services in recent years attests to the fact that patients prefer home health care over traditional institutional care.

I have had the opportunity to talk to patients and their families who receive these services. Almost without exception the family setting enhances the patients morale and serves as a positive influence in speeding recovery or sustaining the critical nature of an illness.

Accordingly, as we reform Medicare we should be careful not to limit access artificially.

The legislation before us today proposes significant changes to the home health care industry. One provision will require that home health care services be paid on a prospective pay system. This is something I have favored for a long time; I think this provision will serve to address concerns regarding costs as well as to promote cost efficiency and effectiveness among providers without compromising the quality of care.

While I support the enactment of a PPS for home health, I do have concerns about some of the provisions contained in the Senate and House proposals which could have unintended consequences of erecting barriers to care for several categories of the elderly.

For instance, the greatest deficiency in the respective House and Senate plans, and one which will cause the greatest financial hardship to agencies as well as impact on patients, is the treatment of extended care/outlier cases; that is, patients who require more than 120 days of care.

According to some industry sources who have contacted me, as much as 30 percent of the national caseload falls into this category. The discrepancy between the per episode cap—based on the average regional cost of providing 120 days of care—and the per agency limit based on 165 days of care—must be addressed and eliminated.

If the episode cap is limited to 120 days, then additional payments, where warranted and approved by the fiscal intermediary, should begin on day 121. Or, alternatively, the per episode cap should be based on the regional average costs of providing 165 days of care.

The financial impact on providers of the discrepancy is obvious. The impact on patients is no less obvious. In the first place, the plan effectively—albeit certainly unintentionally—discriminates against patients with certain medical needs and conditions. While Medicare will pay providers the full cost of furnishing care to some patients whose needs fall within the arbitrarily day limits, it will pay for only part of the care for patients who are either more acutely ill or have chronic conditions.

Additionally, it is reasonable to assume that agencies with large caseloads of patients needing care beyond 120 days—but less than 165—cannot long operate under this system. The logical result will be limited access to care in some areas as agencies close.

With respect to the home health market basket updates, payment rates should be based on actual reasonable costs. The provision which would adjust payments by the home health market basket minus 2 percent is clearly unreasonable. Per visit payment directly affects per episode limits, so the limitation has a compounded effect.

Also punitive, particularly in light of the 45-day window of vulnerability/discrepancy, is the limitation of the savings share to 5 percent of an agency's aggregate Medicare patients. I think this is something we may need to examine, especially since the limitation serves as a disincentive to bring overall costs to a level that will yield savings greater than 5 percent.

The limitation could ultimately hurt the Medicare program, whose level of savings would increase if real incentives were in place for home health agencies to work to produce saving beyond the 5 percent limit.

Another issue regards the break in care between a particular illness or episode. Any required break in the delivery of home health services before a new episode can begin would, by definition, be arbitrary. A 60-day break seems to be unnecessarily long, given the nature of the Medicare home health care population. I think that 45 days might be more reasonable.

Another question I have about our proposal is that it leaves open the question of what responsibility, if any, a home health agency would carry for a patient who is discharged—for example at 120 days—and then who needs services for another condition 50 days later. This issue needs to be clarified. If patients cannot receive the care they

need through home health, it is reasonable to assume they will obtain it in a more costly institutional setting.

Finally, I note that the House bill extends the waiver provision until the implementation of the PPS system on October 1, 1996. I hope this is something we can reexamine.

CHILDREN'S HEALTH

Nothing can be more important to our future than the health of our children. Too often that fact is left out of our debate on entitlement programs.

This debate has underscored that there is obvious disagreement over whether Medicaid should remain an entitlement, but I am certain there is no disagreement that children should be a primary focus no matter how we reform Medicaid.

In particular, children with special health care needs—those with serious chronic conditions or disabilities such as those with cerebral palsy, cystic fibrosis, cancer or heart conditions—are fortunately very small in number. In fact, they represent only 2 percent of all children. But, it will take special attention to make sure their needs are being met.

For example, managed care can offer these children and their families better access to care and better coordination of services, but—as the managed care industry's own National Committee on Quality Assurance has recognized—managed care has little experience with children with special needs.

The bill we have before us today contains an amendment which would have States outline in their plans how they will serve children, and in particular, how they will serve children with special health care needs. While I am certain the Governors will devote appropriate attention to children with special needs, I think that outlining how this will be accomplished in the State plans will give us all the peace of mind that these very vulnerable children will not fall through the cracks.

In addition, the bill contains a provision I coauthored with Sen. GRAHAM to clarify that States are required within their Medigrant plans to describe the methodology to be used to continue disproportionate share payments to hospitals. An explicit methodology is important for hospitals such as Primary Children's in Salt Lake City, which receives 7 percent of its Medicaid revenues from disproportionate share payments.

NURSING HOMES

One of the reasons I have introduced S. 1177, the Quality Care for Life Act, is that I firmly believe we need to adopt a national policy for long-term care. That policy need not be a Federal-only solution. Indeed, any plan to provide comprehensive long-term care services for Americans citizens must embrace a mix of private and public solutions, including incentives for long-term care insurance development.

There are 17,000 nursing homes in this country, who serve 1.7 million residents. The care of two-thirds of these residents, some 1.13 million, is paid by Medicaid, and the care of 100,000 is paid by Medicare.

The impact of this bill on the provision of long-term care services is immeasurable, since we are reforming the Medicaid system which provides a good deal of the long-term care services in this country, as well as making substantial changes to Medicare reimbursement for skilled nursing facilities [SNF's].

There is no doubt that savings from SNF reimbursement should be included in a reconciliation bill; I think that all involved —providers, patients, and policymakers—recognize that fact. However, I have had some concerns about the way the provisions were crafted in the proposal that we considered in Finance Committee.

I have very much appreciated the willingness of Chairman ROTH, and his most capable staff, to work with me to address my concerns.

Two weeks ago, I received a letter from 28 organizations, representing a broad spectrum of companies and health professionals providing care to 1 million Medicare beneficiaries. These organizations, which include nursing homes, subacute facilities, ancillary service providers and health care professionals serving nursing home patients, were opposed to the committee proposal which would have established a flat, per-stay reimbursement rate for all ancillary services based on a blend of a facility-specific and a national average rate.

The basis of concern was that the move toward a national average could cause wide shifts in reimbursement, which could jeopardize patient care especially for those with severe illnesses. In addition, the funding mechanism could jeopardize the trend toward using subacute care as a cost effective alternative to hospital care.

I also think that, despite the Health Care Financing Administration's lack of priority in developing a prospective payment system for SNF's, there is consensus that future payment must be made on a prospective basis. The only practical solution to the funding problem for nursing homes under the fee-for-service sector of the Medicare Program is to implement a prospective payment system that contains the necessary cost containment incentives. This will take some time to develop. Under the most rosy scenario, such a PPS system could not be implemented before October 1, 1997.

To me, the goals in developing a SNF reimbursement proposal should be twofold. We must make certain that any proposal we approve maintains appropriate incentives for high quality services. At the same time, it must also provide reimbursement in the most equitable way, especially during the transition period as we move to a PPS system.

The key to designing a new system is to get a handle, not only on the price the Medicare Program is paying for the nursing home service package, but also on the amount of services provided in the coverage package. Control over the latter can only be accomplished by paying SNF's prospectively on a per episode, per case, or per spell of illness basis—as opposed to the per diem or per day approach that has been traditionally employed in the nursing home industry.

Faced with prospective per episode payments, skilled nursing facilities will be able to economize on the amount of services provided during each Medicare covered stay by adjusting the intensity of services provided during each day of the patient's stay in the facility and by making sure that the Medicare covered stay is no longer than necessary. Of course, other mechanisms outside of the payment system must be relied upon to control the number of Medicare covered admissions, but I expect we will be addressing these concerns through controls on coverage decisions, shifts to managed care, and modifications in eligibility rules.

These prospective episodic payments should cover all of the reasonable costs that skilled nursing facilities incur when providing Medicare covered services, including both operating costs (both routine and non-routine) and property costs. The prospective episodic payments under this system are intended to cover the entire cost of services provided during the period of Medicare part A coverage. This means that the payments are to cover both part A and part B services that are provided to the patients during their Medicare part A covered stays.

Additionally, the prospective episodic payments need not be the same for all patients in all facilities. For example, the prospective payments should be case-mix sensitive so that patients with varying service needs are associated with varying levels of payments. Skilled nursing facilities operating in different labor markets also should have their prospective payment schedules adjusted to account for these market differences. Finally, special consideration should be given to the prospective payments for patients in skilled nursing facilities with very low volumes of Medicare activity so as to preserve the access to SNF services that these providers afford. This can be done either by preserving the current low volume prospective per diem Medicare SNF payment system or by adjusting the prospective episodic payment levels for these facilities to recognize their higher costs of operation. No payment adjustments should be authorized other than those just described.

With this kind of approach to prospective Medicare SNF payment, we can expect to finally get a handle on one of the most rapidly expanding sectors of the Medicare Program.

I am extremely appreciative of the efforts that Senator ROTH and his staff have made to work with me to address

concerns I have had about the SNF provisions in the bill.

There is one other SNF issue I wish to address. The Finance Committee amendment we considered today differed somewhat from an earlier draft I reviewed with respect to section 7037. In the previous draft, the language made it clear that the Secretary of HHS should establish salary equivalency limits based on "recent and accurate data relevant to the specific types of therapists and providers, subject to the salary guidelines." This language also specified that the existing guidelines for physical therapy and respiratory therapy would be updated to conform to that guidance. As my colleagues may be aware, the current guidelines for physical therapy and respiratory therapy are based on 1981 data and they are outdated.

This language was not included in the draft of this morning. I am hopeful that we can work to clarify this section during conference to make certain that the Secretary shall use accurate, timely, and relevant data in developing occupational therapy and speech language pathology guidelines and to assure that the Secretary will rebase the existing guidelines for physical therapy and respiratory therapy based upon timely, accurate, and relevant data.

CLINICAL LABORATORIES

Another provision about which I have some concern is the provision on reimbursement of clinical labs contained within this bill. I have no objection to reducing the level of spending under this category, and I am very appreciative of the fact that the bill does not contain the unwise proposal from 1993 to impose a copayment on lab services.

In committee, I had suggested a provision similar to the Ways and Means bill which would only freeze updates for lab payments and include much-needed administrative simplifications which could provide efficiency and cost-effectiveness in the delivery of lab services, a key regulatory reform goal of this Congress.

We were not able to work out the scoring on this proposal, but I am hopeful the issue of lab reimbursement, and especially administrative simplification, can be reexamined in conference.

FEDERALLY QUALIFIED HEALTH CENTERS

During Finance consideration of this bill, the committee adopted without objection a provision I authored with Senators CHAFEE and GRASSLEY which would allocate one percent of Federal Medicaid spending for the preservation of what I believe is really the Nation's primary care infrastructure—community health centers and rural health clinics. Since the bill rewrites title IX of the Social Security Act, Medicaid, it eliminates the cost-based reimbursement they would have received under Medicaid as Federally-Qualified Health Centers (FQHCs).

Let me make perfectly clear that I am extremely sensitive to the concerns that our Nation's Governors' have raised about using a Medicaid set-aside as a funding source for this amendment; I want to work to address these concerns as the process moves forward.

Under our amendment, one half of the amount allocated would be used for payments to community health centers, and the other half for rural health clinics. The Secretary of HHS would determine the methodology for determining payments to these centers and would make payments directly to the centers. Payments made to centers by the Secretary would be in addition to any other revenues the centers receive from Medicaid, either directly from States or from managed care plans.

Mr. President, over 1000 community health centers and 2500 rural health clinics play a unique role in the health care system. In inner-city areas, community health centers are often the only providers of care to Medicaid patients and the uninsured. In rural areas, community health centers and rural health clinics are often the only providers for the residents of the area, whether they are on Medicaid or Medicare, have private insurance, or are uninsured.

Community health centers and rural health clinics serve over 16 percent of Medicaid patients nationwide. My colleagues might be surprised to know that 36 percent of community health center patients are on Medicaid; 44 percent are uninsured; 8 percent are on Medicare; and 12 percent have private insurance.

For rural health clinics, 27.7 percent of the patients are on Medicaid; 29.4 percent are on Medicare; 14.4 percent are uninsured; and 28.5 percent have private insurance.

The current Medicaid Program recognizes the unique role of these centers, and provides them with cost-based reimbursement, in order to assure that the payments are sufficient to meet the health care needs of Medicaid patients they serve.

Unlike providers with large numbers of privately insured patients, these centers do not have reserves or available capital, and do not have the ability to cost-shift losses from insufficient payments under public programs.

Under many current Medicaid managed care programs, these centers have not received sufficient payments from managed care plans to meet their costs of caring from Medicaid patients.

Some of my colleagues may ask why these centers need special consideration. A major reason is that many will be forced to close their doors or reduce services if their reimbursement is not maintained.

Centers are committed to serve all in their communities. Without a sufficient flow of funds to meet the needs of their Medicaid patients, centers will be forced to substantially reduce their patient loads, and many will go out of business. Other providers will not enter these underserved communities because the economic base will not support them, and the community will be left with no remaining health care infrastructure.

Another reason is that Medicaid patients (particularly those seen by centers) often are more difficult to treat than the privately insured patient enrolled in a managed care plan because Medicaid health center patients have more serious health conditions and poorer overall indicators of health status.

In addition to traditional medical services, centers provide other services (such as outreach, transportation, health education, and translation) which enable Medicaid patients to better utilize care and comply with medical direction. These services are not generally included in a capitated payment which a health center receives from a health plan.

There are many benefits which would result from this legislation.

Since these centers must be located by law in underserved areas, access to cost-effective preventive and primary care services will be assured.

These centers deliver health care which is one of the best bargains anywhere. For example, the total annual cost of community health center comprehensive primary and preventive care is, on average, less than $300 per patient.

I would also like to reassure my colleagues that this provision could result in substantial savings for State Medicaid Programs. Several recent studies have found that Medicaid patients who regularly use health centers have lower total annual health care costs than Medicaid patients who use other primary care providers, such as HMOs, hospital outpatient units, or private physicians. These studies show that health center patients were 22 percent to 33 percent less expensive overall and had between 27 percent to 44 percent lower inpatient costs and days.

Other providers could also benefit from this provision. These centers serve disproportionate numbers of high-risk patients, and adequately compensating the health centers for their care can make risk levels more reasonable for other providers in communities with more than one provider.

As we prepare to vote on this landmark legislation, I want to express my deep personal appreciation to the Finance Committee health staff, who have labored long and hard under the most difficult circumstances to bring us a solid piece of legislation. In particular I want to cite the hard work of Julie James, Roy Ramthun, Alec Vachon, Susan Nestor, and Donna Norton. I would be remiss if I did not also mention the monumental efforts of Lindy Paull, Rick Grafmeyer, and last, but not least, Gioia Bonmartini.

In conclusion, Mr. President, unfortunately, there is no easy nor painless way to effect reductions in the growth of Medicare and Medicaid. But it has to be done.

My message is simple. I wish we lived in a world in which we had unlimited

resources so that all—aged, disabled, poor—could have the services they desire. But such a world does not exist.

We must be fair to our Nation's disabled, to our seniors, and to the low-income. But we must also be fair to our children, and their children. In short, we just have to do the best we can and this bill is a good start.

BALANCED BUDGET RECONCILIATION ACT

Mr. PRESSLER. Mr. President, I am pleased to be voting today for the Balanced Budget Reconciliation Act. For the first time in a generation, the United States Senate will be voting to end fiscal irresponsibility. Today, we have the opportunity to leave the next generation not mountains of debt, but the prospect of a stronger economy and a better standard of living.

Many of us have fought this battle to end runaway deficit spending for decades. I have done what I can. I have kept my votes within a balanced budget. I have cosponsored constitutional amendments to balance the budget, and measures to grant the President line item veto authority. When I assumed the chairmanship of the Committee on Commerce, Science and Transportation, I voluntarily reduced my staff budget by 15 percent. Those of us who believe in common sense budgeting fought tenaciously to reverse years of liberal excess and largess that has left the United States a debtor nation. For years, the only things I have had to show for my efforts to balance the budget are awards from grassroots, fiscal watchdog organizations. Today, with passage of this legislation, I have my eyes on the ultimate prize: a balanced federal budget. It is about time.

Of course, the people who deserve most of the credit are the American people. As they have done in so many instances throughout our nation's history, the American people made the difference. Last November they said enough is enough. They sent home many liberal caretakers of a run-down, bloated federal government, and sent to Washington a new corps of members that share my common sense approach to government. American families, working hard to provide for their children's future, knew that the federal debt stood as an ominous threat to their efforts and their way of life.

The people of South Dakota long ago made clear they do not tolerate wasteful deficit spending. South Dakotans believe that the federal government should live within its means—just like every family, every farm, and every business large and small. They are absolutely right.

No single act this Congress can take could have a more positive impact on more Americans than a vote to balance the federal budget. The facts are clear. A balanced federal budget and a lower debt free up investment dollars that have gone toward financing the debt or making interest payments on the debt. In practical terms, a balanced budget would mean three key things: First, it would mean lower interest rates by up to two percent, making loans for new businesses, a new home or car, or a college education more affordable; second, it would mean at least 6.1 million new jobs; and third, it would mean a higher standard of living. In fact, a balanced budget would result in per-family incomes rising on average by $1,000 a year.

With all the clear benefits, it is no wonder that the American people strongly favor a balanced budget. Americans recognize that fiscal irresponsibility has been a stifling barrier to progress—a barrier that gets larger, more onerous and more oppressive unless we act. Today, we are acting. A balanced budget is not just a restoration of common sense government. It is nothing less than economic liberation for every American family and business.

The balanced budget bill we pass today maintains our commitment to vital programs, such as student loans and national security. It also preserves and improves outdated, costly social programs that threaten to spiral our country into bankruptcy. Chief among them is Medicare.

Medicare reform is critical. I support Medicare. It provides essential hospital and health care services to 37 million Americans, including 113,000 South Dakotans. My mother depends on Medicare for basic health care.

As all of us know, earlier this year, we received troubling news from the trustees in charge of Medicare. They said that Medicare would be bankrupt in 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. That must not happen. If we enact the Medicare reforms contained in S. 1357, that will not happen.

This bill would save Medicare by making a number of key reforms. First, the bill would slow the rate at which Medicare is spending our tax dollars. At present, Medicare is growing at an annual rate of 10.4 percent. That is too fast. It is like forcing a person to run a marathon at a sprinter's pace. If allowed to grow at this pace, Medicare will burn out and run out of money in 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 years to come.

In terms of dollars and cents, total Medicare spending would increase from $178 billion this year to $274 billion by the year 2002—that is a total of $1.6 trillion invested in Medicare and an increase of 54 percent over seven years. This growth rate is faster than any other major government program. Spending per South Dakota Medicare beneficiary would increase as well, from $4,816 this year to $6,734 in the year 2002—an increase of $1,918.

This bill would improve Medicare as well. The Republican Medicare reform plan rests on three basic principles: First, every senior would be able to choose the same fee-for-service Medicare plan they have now, with all of Medicare's benefits. Second, senior citizens would continue to be able to choose their own doctor. Third, seniors would have a new option—the option to choose from a variety of health plans, as do younger Americans and Members of Congress. Seniors could stay on Medicare, or opt for a health plan offered by a Health Maintenance Organization (HMO), a Provider Sponsored Network (PSN), or even a health plan sponsored by a pool of physicians.

For the first time, seniors would be given a greater choice over health care options. They would have leverage as health care consumers in a newly competitive health care market. This option of choice would offer senior citizens more benefits, such as eyeglasses, prescription drugs and hearing aids, at a lower cost.

In short, Republicans intend to improve Medicare by preserving its best elements, and empowering senior citizens, not the government, to choose the health plan that suits them best.

This legislation also contains much-needed reforms in the Medicaid program. Like Medicare, the Medicaid program is growing at an excessive rate that threatens funding levels for other vital social programs. The core element of Medicaid reform is to slow the rate of growth in the program, from 10.5 percent to just under 5 percent We further reform Medicaid by giving the States greater authority to administer the program, while maintaining our traditional commitments to cover pregnant women and children, as well as the disabled.

The balanced budget legislation also maintains our commitment to young Americans who need financial assistance for college. Much misinformation has been circulated by the liberals, but the reality is student financial aid enjoys wide bipartisan support. This was made evident just yesterday, when the Senate overwhelming approved an amendment I cosponsored to provide an additional $5 billion for student financial aid. This amendment would preserve the in-school interest subsidy for both undergraduate and graduate students. It also would prevent any increases in the interest rate on PLUS loans for parents and it eliminated a misguided .85 percent fee on student loan volume on colleges and universities.

I am very pleased the Senate adopted this amendment. During the Senate Labor Committee's consideration of its provisions in the balanced budget legislation, I contacted Chairman KASSEBAUM to express my opposition to any

new fees on higher education institutions as a way to preserve our commitment to Federal student loan programs.

Frankly, we could do even more for our financial aid programs by repealing the wasteful direct lending program. This bill takes a step in that direction by capping the direct lending program at 20 percent. This program is a very inefficient and costly attempt to remove the private sector from the student loan process. The Congressional Budget Office [CBO] estimated that the elimination of direct lending would save taxpayers $1.5 billion over 7 years. In addition, students and families are better served by their local banks than faceless bureaucrats in Washington.

I have heard from many young South Dakotans on the importance of financial aid for higher education. I personally identify with their concerns. I relied on student loans to get through college. Let me assure them and their parents that the balanced budget bill before us today is a winner in two respects —first, it maintains the Federal commitment to federal student loan programs; second, by balancing the budget, young South Dakotans will inherit an American economy and a standard of living second to none.

Finally, Mr. President, the balanced budget bill brings much-needed tax relief to the American people—tax relief that is balanced, reasonable and fair. We need tax relief for a number of reasons. First, the current tax code is unfair to working Americans. Since 1950, the tax burden has risen dramatically. Today, average Americans see up to 40 percent of their hard-earned income go toward taxes. In a nation where the average family has both parents on the job, Americans are working harder than ever before. Yet, they have less and less to show for it. That is not right. A heavy tax burden stalls economic growth, prevents savings and investment, and hinders a family's ability to provide for the well-being of their children.

Second, we need tax relief to reverse the adverse affects of the 1993 tax increase—the largest in American history. This tax increase is the main reason why the current economic recovery has been much slower than previous recoveries. As I stated, a balanced budget provides our economy a much-needed boost. Tax relief would empower working Americans with the means to further boost our economy. Indeed, this tax relief bill is good for all Americans—families, small businesses, farmers and seniors.

We have carefully crafted a bill that takes a big step toward fairness and empowers Americans to contribute to the health of our country, our communities and our families. And we do so without leaving a Federal deficit.

The largest component of this tax package would provide a $500 per child tax credit for low- and middle-income families. This is money that can go where it can do the most good—in family budgets to serve a number of purposes, ranging from child care to saving for a college education.

This tax credit is great news for tens of thousands of South Dakota families. Specifically, more than 84,000 South Dakota families would benefit from the tax credit. Of that number, more than 31,000 South Dakota taxpayers would have their tax liability eliminated completely. This is a true middle class tax cut. In fact 84 percent of the tax relief in this bill would go to Americans making less than $100,000 a year.

The bill would provide even more tax relief for the middle-class by creating a student loan deduction for up to 20 percent of interest—up to $500—paid on a student loan.

The bill would create an adoption credit to encourage and reward those who reach out to open their hearts and homes to a child in need of a home. And we have strengthened our commitment to families by relieving the unfair burden of the marriage tax penalty.

The bill would encourage middle class families to save and invest by creating a new Individual Retirement Account. Current use of tax-deductible IRAs would be expanded through an increase in the income limits, which would encourage Americans to save more and secure their futures. Homemakers would be allowed participation in IRAs. Finally, penalty-free withdrawals would be allowed for first time home purchases, medical expenses, periods of unemployment and higher education expenses. I have long been a strong advocate for making IRAs more flexible for families. I am proud to be a co-sponsor of the original legislation, which was incorporated in S. 1357.

Our economy would be further stimulated by the capital gains tax cut contained in this bill. More often than not, capital gains taxes hurt middle income families. The vast majority of capital gains is realized from those individuals who have held a family home or farm for decades or even generations, and are severely punished by the tax code when they finally sell their primary assets to pay for retirement. This bill would cut the capital gains tax rate by 50 percent for individuals. This would allow individuals who now are holding assets for fear of the capital gains tax to put those assets to a more productive use.

Our small businesses—the true engines of our economy—would benefit from the capital gains reforms, but also from other specific items in our bill that were created for their benefit. Many small businesses do not offer pension plans to their employees due to the administrative costs and unnecessary paperwork that is required. For those businesses with less than 100 employees and limited resources, the bill would create a simple 401(k) plan where employees can contribute up to $6000 of wages, and employers must match up to 3 percent of the employee's pay.

One portion of this bill that I am particularly proud of is estate tax relief for family farms and businesses. Too often, people work their entire lives to build a successful farm, ranch or other small business, with the hopes of passing it along to their children. Unfortunately, the estate tax laws take away the fruits of their labor by imposing a tax of up to 55 percent upon the family estates. This frequently forces the family to sell all or part of the business simply to pay estate taxes. Earlier this year, after months of preparation, Chairman ROTH, Senator DOLE, Senator PRYOR and I introduced legislation that would exempt the first $1.5 million of qualified family-owned business assets from estate taxes, and then to provide a 50 percent rate cut beyond that.

The continuation of family-owned businesses is critical to the strength of our communities. This is true in South Dakota, where family farms and businesses have been the heart and soul of our economic development since statehood. Family-owned businesses give our kids something to work toward—and it helps our towns and neighborhoods by providing an active business commitment to their stability. The estate tax reforms in this legislation would end the imposition of estate taxes for virtually every family-owned family farm and small business in South Dakota.

I also worked to include in the bill a modest, but much-needed change to the Generation-Skipping Transfer Tax laws that would free up more options for contributing estate assets to charity.

I am pleased that this bill would retain the ethanol tax credit and extend the recently expired ethanol blenders tax credit, which is very important to South Dakota corn farmers and ethanol blenders. Both provisions are important for rural America and farm income. These kinds of credits are essential in order to provide new market opportunities for farmers. Ethanol is a fuel source that is cleaner for the environment, reduces dependency on foreign oil and strengthens our agricultural sector.

This tax package is a solid, reasonable approach to tax relief. It stimulates the economy and helps those who are trying to make a better life for themselves. Having the ability to plan ahead for retirement and other, unexpected, life changes benefits the society as a whole.

In order to assist those who seek to provide for their long-term health needs, the bill would clarify the treatment of long-term care insurance so that it would be treated like medical insurance and receive favorable tax treatment. The more we can encourage people to plan ahead for themselves, the stronger all of our futures will be. We have created Medical Savings Accounts [MSAs] so that everyone can plan for medical crises. The earnings on these accounts would be tax-free as are the withdrawals for certain purposes.

Mr. President, the driving principle behind this entire legislation is fairness—fairness to hard-working Americans and particularly to our children, who stand to inherit this country. Without this legislation, Americans would be subjected to egregious forms of unfairness on many fronts. Unless we balance the budget, young Americans will inherit a nation submerged in debt. A child born today already owes $187,000 just on interest on the Federal debt. That is more than $3,500 in taxes every year of her working life—a lifetime tax rate of 84 percent. This debt stands to threaten the very foundations of our economy and our country.

Without this legislation, Medicare will go bankrupt in the year 2002. Americans not yet of retirement age, who are contributing a significant portion of their pay to Medicare, deserve to know that Medicare will be there for them when they retire.

Without this legislation, hard-working Americans would be saddled with a tax system that punishes their ability to save, invest and provide for their families.

This legislation restores fairness to fiscal policy, seniors' health care and tax policy. Most Americans play by a common sense set of values. Americans work hard. They obey the law. They look out for their family and community. They try to provide for their future and their children's future.

For more than a generation, the Federal Government has stood in stark contrast to these values. The Federal Government taxes far too much and spends even more. It does not live within its means. It stifles individual initiative and ingenuity. This liberal tax and spend philosophy stands to threaten the livelihoods and the values that embody them of future generations.

Today, we take a significant step to right the wrongs of an irresponsible legacy of tax and spend. It is a historic occasion. Today, we set the stage for a new legacy of fiscal responsibility and fairness to American families. The American people made history last November by giving the Republicans control of Congress for the first time in more than a generation. They called for fair, common sense government. Tonight, for the first time in more than a generation, we in the Republican party will give the American people what they asked for: A fair, common sense government that lives within its means.

NAVAL PETROLEUM RESERVES

Mr. DOMENICI. Mr. President, there was a point of order sustained against the provision in the bill providing for the sale of the naval petroleum reserves [NPR], it is a technical violation of the Byrd rule.

The budget resolution included a reconciliation instruction based on the gross proceeds from the sale of the naval petroleum reserves. For reconciliation purposes, the Senate Budget Committee has scored the gross proceeds to the Armed Services Committee consistent with the budget resolution.

Under reconciliation scoring, there is no violation under the Byrd rule.

For the purposes of scoring under sections 302 and 311 of the Budget Act and determining whether the budget is balanced we do take into account the forgone receipts from the sale of the naval petroleum reserve. So, under that scoring there would be a net outlay increase in the out-years.

Even so, no one should be under the impression that the sale of the NPR will lose the Government money.

Under CBO's scoring, the sale of the naval petroleum reserves [NPR] leads to three budgetary impacts: $1.6 billion increase in gross proceeds to the Government from the sale of the NPR; $2.5 billion in forgone receipts over the next 7 years from the sale of the reserves; and at least $1.0 billion in discretionary spending savings associated with the fact that the Government no longer will need to spend money to operate and maintain the reserves.

None of these figures take into account the interest savings the Government will earn or the tax revenues that will be generated by the private operation of this oil venture. Even without these additional savings, the sale still generates savings to the Federal Government over a 7-year time period.

The point of order against this provision is clearly a technical violation. I will work to ensure the sale of the NPR's is incorporated into the conference report and there is no Byrd rule violation.

The irony here is that a Democratic point of order will defeat the President's proposal to sell the naval petroleum reserves. If we don't sell it, the President's plan is even more out of balance.

Mr. President, the NPR has outlived the original purpose for which it was established around the turn of the century—a fuel reserve for the Navy.

Since 1976, the Department of Energy has been operating NPR as a commercial oil venture. The quality of oil produced from the NPR is not suitable for use by the modern Navy and instead is sold to the private market.

There is no national security rationale for the Federal Government to continue managing NPR oil production, either in terms of military or domestic energy requirements. The private sector can run NPR more efficiently than the Federal Government.

INTERNATIONAL SIMPLIFICATION

Mr. DOLE. Mr. President, I would like to state my support for including several international tax simplification measures in the conference report. There is an urgent need to address certain issues now before businesses make operational decisions that may negatively impact the growth of those industries for years to come, and, as a result, harm the U.S. economy. I know that Senators HATCH, D'AMATO, CHAFEE, GRASSLEY, and MACK also have strong concerns in this area, and I hope we can all work together to see that these issues are addressed in the conference report on this bill.

The provisions to which I refer include various international simplification measures, some of which are in the House bill, including a measure that would permit foreign tax credits to be applied to taxes paid by fourth-, fifth and sixth-tier controlled foreign corporations (CFCs), as well as the repeal of Section 956A of the Internal Revenue Code, the clarification of the application of the foreign sales corporation (FSC) rules with respect to software exports, and a reevaluation of the deferral rules for foreign shipping income of CFC's.

One of the provisions on which I believe we should act is section 956A, which was one of the tax increases included in President Clinton's 1993 tax bill. Contrary to the stated reason for enacting this provision, in many cases it has created an incentive for U.S. multinationals to invest overseas rather than in the United States. This is because by having its foreign subsidiary invest in active foreign assets, a U.S. multinational reduces its tax liability. Thus, section 956A essentially provides a 35 percent investment tax credit for foreign investment by U.S. companies. Similar problems arise from a provision that today could cause a CFC to be treated as a PFIC because current law generally does not recognize the value of a company's intangible assets. These and other international tax simplification issues should be addressed in the conference agreement to this bill.

Mr. HATCH. Mr. President, I share the concerns expressed by the majority leader regarding the need to repeal Section 956A and the application of the PFIC rules to CFC's in connection with intangible assets. I would also like to express my concern about the problem of the overlap between subpart F and the PFIC provisions in general. I look forward to working together with the leader to correct all of these problems in the conference report on this bill. These provisions have the effect of hindering competitiveness of U.S. multinationals and distorting investment decisions that properly should be governed by economic considerations alone. Thus, they put at risk U.S.-based jobs. The 956A and PFIC rules have an especially harsh effect on research-intensive companies, which tend to accumulate capital before making major investments. As a result, I am particularly concerned that research activities may be moved overseas in order to avoid the impact of these rules. I believe this Nation may gradually lose its competitive edge in the technology field if through ill-conceived tax rules we provide incentives for this technology to be developed and owned outside the United States. As you know, technology industries are very important to my State of Utah, and I am concerned about Tax Code

provisions that have the effect of causing those industries to move their high-paying jobs out of the United States. For that reason, I would like to ask the leader's support for addressing in conference a problem that has arisen because of a narrow and ill-conceived IRS interpretation of the foreign sales corporation (FSC) provisions as they apply to exports of software, which I fear could also result in the movement of software development jobs overseas.

The FSC rules were enacted to address competitive disadvantages faced by U.S. exporters vis-a-vis exports from other countries that have more favorable tax systems, particularly those that effectively exempt export sales from home country tax. The goal of the FSC provisions was to remove an incentive to move manufacturing and production jobs out of the United States. Unfortunately, a narrow IRS interpretation of these rules could preclude exports of software copyrights from qualifying for export treatment under the FSC rules when those exports are accompanied by a right to reproduce the software overseas. I am very concerned because software companies are already examining opportunities to move high-paying software development jobs overseas where highly skilled labor is available at much lower wages. FSC benefits help offset higher U.S. labor costs by providing benefits on the export of products developed in the United States. I believe it is very important to clarify these rules to reflect the Congress' intent with respect to software, not only to protect U.S. software development jobs, but also to preserve ownership of this technology in the United States.

The narrow IRS interpretation of the application of the FSC rules to software was included in 1987 temporary and proposed regulations, which were never finalized. The Treasury Department has broad authority under current law to implement congressional intent by providing that a copyright on software qualifies as export property even if the software is accompanied by a right to reproduce. I believe that the Treasury Department should take action on its regulations to so provide this result. However, Treasury has indicated that it prefers congressional action to resolve this issue. In any event, 8 years is too long to wait for Treasury to take action on its temporary regulations, especially given the fact that the software industry regularly receives solicitations to move their software development to other countries, such as Ireland and India. Therefore, I hope that the majority leader will support legislative clarification of this issue in the context of international tax simplification measures that will be considered by the conference committee. This clarification of the FSC rules is an important simplification measure because it will implement the intent of Congress and help taxpayers and the IRS avoid years of litigation over the current regulations and help to avert complicated restructuring activities.

Mr. DOLE. Mr. President, I, too, am concerned about the Treasury Department's interpretation of the FSC rules with respect to computer software and do not believe that the FSC statute precludes the application of the FSC provisions to computer software in the case described by the Senator from Utah. Given the Treasury's unwillingness to resolve this issue, I agree that we should address this issue in conference.

Mr. D'AMATO. Mr. President, I share the views of the majority leader and the Senator from Utah with respect to the urgent need to provide long-overdue improvements to our international tax system, especially when existing law hampers our industries as they expand their operations in the global marketplace.

The need for simplification and reform is illustrated by section 956 of the Internal Revenue Code—a section introduced in the 1960's and designed to prevent taxpayers from avoiding taxation on the repatriation of foreign earnings through disguised dividends in the form, for example, of loans to affiliates. In general, ordinary course of business financing transactions appropriately were exempted from this provision. Since section 956 first was introduced, however, the scope and complexity of international business have expanded rapidly, but the ordinary course of business exceptions to section 956 have not been updated.

For example, U.S.-based securities firms typically had negligible foreign earnings at the time section 956 was introduced, and therefore the ordinary course of business exceptions to that provision did not reflect standard commercial practices in that industry. In recent years, however, many U.S.-based securities firms have transformed themselves into global institutions by developing substantial international operations (just as many foreign-based institutions now compete in the United States). Section 956 has never been updated to reflect this surge in the international activities of the U.S. securities industry, thus forcing the industry into complex uneconomic transactions.

This is just one example of how U.S. taxation has not kept up with the political, economic and technical changes that have created new opportunities and broken down old barriers as national markets are replaced with global markets. Our tax laws should reflect and support these changes in a similar fashion, or they will force undue complexity on U.S.-based companies.

I join with the Senators from Kansas and Utah in supporting the principal of tax reform in the international area and the inclusion of international simplification and reform in the conference report.

Mr. DOLE. Mr. President, I agree that we should try to address these measures in conference.

BAUCUS MOTION TO STRIKE

Mr. BIDEN. Mr. President, there is a stretch of coastal plain in northeastern Alaska which has been called North America's Serengeti. Nestled between the towering 10-thousand foot peaks of the Brooks Range and the frigid Arctic Ocean on the North Slope of Alaska, lies the Arctic Coastal Plain, the 1½-million-acre crown jewel of the 19-million-acre Arctic National Wildlife Refuge. According to the Fish and Wildlife Service, the coastal plain area is the biological heart and the center of wildlife activity in the refuge. This pristine and complex Arctic ecosystem is habitat for a complete spectrum of wildlife, including polar and grizzly bears, wolves and snow geese. A 160,000-member porcupine caribou herd has used the coastal plain as a calving area for centuries. In all, more than 200 animal species call the refuge home.

Tragically, the bill before us today threatens to permanently mar Alaska's Coastal Plain by permitting destructive oil and natural gas exploration. Under a broad pretext of jobs, economic development, and international security, some want to enable gigantic energy interests to irreparably harm the sanctity of this area. What will be taken can never be replaced, and we ought not allow exploration to occur.

The State of Alaska has been blessed with abundant natural resources, and on the whole we, as a nation, are stronger for much of the enormous development which has occurred there.

Depending on who you ask naturally, the prospects for a substantial oil find on the coastal plain vary. Nineteen percent, Forty percent, the estimates, by definition, are inexact. Proponents of development believe that under the tundra lies the next Prudhoe Bay discovery, the next North Sea field. Fueled by projections of a skyrocketing demand for oil by the developing world, energy interests are waiting with bated breath.

Yet, of the more than 1,100 miles of northern Alaska's coastline, the coastal plain is the only 125 miles closed to development. Isn't this a small, justifiable sacrifice. Isn't there a point where we draw the line and protect a unique area because there is value beyond the price per barrel.

Let us assume for the moment that perhaps there is some merit in development, and let us further use Prudhoe Bay as a case study of likely consequences. Though for the most part drilling in the bay is reasonably managed, oil spills still average 500 annually—that is nearly 10 spills per week. This activity seems to also be having an impact on the surrounding wildlife. An article in the October 21 edition of the Anchorage Daily News noted that a new State caribou survey has found a sharp decline in the central Arctic caribou herd indigenous to the area. The cause is unknown, however, recent research by the University of Alaska has found that caribou living near the oil

fields have far fewer calves than those away from the facilities.

If this is in fact the case, the adverse effects of oil activity would be magnified in the coastal plain. What will exploration bring? Hundreds of miles of roads and pipelines leading to dozens of oil fields, blocking wildlife migration. Toxic wastes leaking into the soil. Rivers and streambeds robbed of millions of tons of their gravel to construct roads and runways.

According to Interior Department estimates, oil exploration would likely result in a decrease or change in distribution of 20 to 40 percent in the caribou population, 50 percent in the numbers of snow geese, and 25 to 50 percent in the muskox populations.

And after the oil has dried up, after the companies have gone, what will be left? The footprint of industrial development: abandoned drilling equipment scarring the landscape; toxic contamination; lost wildlife; a horizon permanently altered.

I have heard proponents argue that opening the coastal plan is a critical step toward decreasing our growing dependence on foreign oil. Yet, many of these same proponents are now moving a bill through the Congress to start exporting the oil presently extracted from Alaska's North Slope.

Mysteriously, this concern about our dependence on foreign oil also seems to evaporate when it comes to investment in research and development of alternative fuels, such as solar and wind energy.

Protection of our wilderness should not be a Democratic issue, or a Republican issue. In fact, the entire National Wildlife Refugee System, or which the Arctic Refuge is a part, was begun in 1903 by one of the greatest conservationists in our history, President Teddy Roosevelt, a Republican. The coastal plain was part of the original wildlife refuge established by President Eisenhower in 1960. Regrettably, red ink bleeding from Alaska's budget and the power of a few special interests have polarized this debate.

Every American has a stake in our National Wilderness Areas, in the preservation of the environment in which we all live. Every acre offering the possibility of oil ought not be drilled, every mountain offering the possibility of gold ought not be mined, every mile of wilderness ought not be stripped bare just because its value can be quantified, just because revenue can be raised.

Due to the fragile and complex interconnection of ecosystems, our future is inextricably linked to nature's vitality. If the scale is tipped too far by overdevelopment and we lose our balance, no amount of money will enable us to restore what we have lost.

We must remember that we are but visitors in this land, existing by the good grace of Mother Nature—a lasting, sustainable society for all future generations depends upon it.

Mr. COHEN. Mr. President, I have enormous respect for my Republican colleagues for producing this historic budget. For the first time in a generation the Senate is presented with a plan that actually balances the budget.

Earlier this year, opponents of the balanced budget amendment charged that the amendment was a gimmick designed to allow Members to say they support a balanced budget without having to explain exactly how to achieve this.

I am proud that these critics have been proven wrong. Despite the loss of the balanced budget amendment, this Republican Congress has persevered in producing a specific plan to balance the budget in 2002—the same year called for in the balanced budget amendment.

The spending cuts called for in this plan are significant, and many of them are well overdue. My concern is with the tax cuts. I do not think we should be cutting taxes at the same time we are trying to balance the budget.

Trying to do both at once is like driving with one foot on the gas and the other on the brake.

I think the tough cuts proposed in this plan would be more easily justified without the tax cuts.

Any way you look at it, because of these tax cuts, the Federal Government will have to borrow $245 billion more over the next 7 years than it otherwise would. This is particularly troubling in light of the fact that, if no changes are made in the Federal budget, children born today will face a lifetime tax burden of 82 percent. Such a tax burden is clearly unsustainable and intolerable.

Paying for tax cuts with borrowed money is really more of a tax deferral than a tax cut. At some point, future taxpayers will be forced to pay back the $245 billion and their tax burden will be higher than it otherwise might be.

If the effect of borrowing money for tax cuts today is to increase the tax burden on future generations, the entire purpose of balancing the budget is undermined. We will still be asking our children to foot the bill. Balancing the budget is itself a tax cut in that it would relieve families of the hidden taxes associated with servicing the national debt. Interest on this debt costs the average household over $800 a year. Balancing the budget more quickly and forgoing a deficit-financed tax cut would ease the burden of these hidden taxes. Balancing the budget more quickly would also lower interest costs for mortgages and student loans—saving families thousands of dollars.

Congress must focus on increasing the national savings rate. The surest way to achieve this goal is by reducing the deficit and by fundamentally reforming the tax code. The tax cuts proposed in the pending bill would frustrate both of these goals. The Tax Code would be complicated further and the deficit would be $245 billion larger.

Let me be clear. If not for the budget deficit, I too would support a broad-based tax cut. I am no fan of higher taxes. I opposed President Clinton's deficit plan because it relied too heavily on tax increases and not enough on spending cuts. It is one thing to oppose further tax increases. It is quite another, however, to support large tax cuts in the face of looming deficits.

While the size of the tax cuts prevent me from voting for this budget, I appreciate the willingness of the majority leader, Senator DOMENICI and Senator ROTH to work with me and other Senators to make some important changes to the bill affecting the education and Medicaid programs. In addition, important Federal nursing home standards were maintained. While these improvements were substantial, they could not offset my overarching concerns with cutting taxes by $245 billion at this time.

I am confident that the Senate will have an opportunity to consider another balanced budget plan this year. The budget in its current form will almost certainly be vetoed by the President. Subsequent to this veto, I look forward to working with my colleagues to craft a new plan that maintains the goal of balancing the budget without cutting taxes by $245 billion.

Mr. SPECTER. Mr. President, I am voting in favor of final passage of the budget reconciliation bill because I believe the prospective benefits of balancing the budget outweigh the concerns expressed in my floor statement of October 24, 1995. As indicated by that statement and my votes on individual amendments, I believe the bill would have been fairer with more funding for Medicare, education, and Medicaid without the tax cuts. OK, the tax cuts should have gone to deficit reduction. But, on balance, the bill should be passed.

At the insistence of our group of centrist Senators, this bill has been materially improved by floor amendments which did add some significant supplemental funding for Medicaid, Medicare, and education.

It is my expectation that further improvements are likely in the House-Senate conference with additional funding for Medicare and recipients of the earned income tax credit, because the House of Representatives has higher figures in those accounts.

After the House-Senate conference and the expected Presidential veto, it is likely that the ultimate legislation will better address the fairness issue and provide better assurances that tax cuts will not undermine a balanced budget.

Passage of this bill by the Senate today will move the process forward and promote the primary objective of balancing the federal budget by the targeted year of 2002.

Mr. BIDEN. Mr. President, a nation's budget reveals its fundamental values, its priorities, the problems that most concern its people. A budget can tell us a lot about how a nation's resources will be shared—which people, what activities will bear the tax burdens, and

which people, which activities will be encouraged and rewarded.

We are debating here today perhaps the most important budget plan in my public career. This is the first time we have committed ourselves to a 7-year budget plan, and the first time we have committed ourselves to a path which ends in a balanced budget. If—and this is a big if—we stick to it, this budget will control our actions through the end of this century and beyond.

What statement does this document make about our country? What does this reconciliation bill say about our concerns, what does it say about our values?

Mr. President, as we debate this bill we face a number of fundamental problems in our country. High on the list of worries of the middle-class men and women I talk to in my State of Delaware is the need to restore faith in the American dream—a belief that their own hard work will earn them a decent living today, that their mothers and fathers will enjoy a secure and dignified retirement, and that there will be a better world for their sons and daughters.

And just as high on that list of Americans' concerns is a need to restore Americans' sense of fairness—a sense that we have a system that gives the average guy a fair shake, that does not turn its back on those who are less fortunate, a system in which the most fortunate meet their obligation to contribute to our shared needs.

This is a value increasingly at risk today.

How does this budget respond to those concerns, Mr. President? How does it reflect those middle-class values?

I am sorry to say that this budget will give middle-class Americans more reason to worry about the future. It weakens the foundation of future growth by making it harder for our children to get the education they need to become part of a high wage, high productivity, world class work force.

The lower, slower growth that is the inevitable result of this reconciliation bill will contribute to a further hollowing out of our middle class—an expanding gap between the few whose families can afford a more expensive ticket to a better future and those who cannot.

A weakened middle class increases social instability, and leads to the very real concerns about the future that we now see in the polls, and in our streets.

It threatens Americans' ability to control their own fate—no matter how hard they work, a weaker, slower growing economy will mean smaller wages and salaries, a bleaker future.

As unwise, as reckless as this bill is in its threat to our current and future standard of living, Mr. President, it is unconscionable in its abandonment of our commitment to our parents' generation.

It raises the cost of getting old in America, Mr. President. This reconciliation bill is a dark cloud over what should be the golden years of the generation that made us into a world power, that passed on to us the richest, most powerful country in the history of the world. How do we repay their hard work and sacrifice on our behalf?

This bill raises the cost of Medicare and Medicaid, and removes nursing home standards that demand basic human decency. It cuts more than $270 billion from Medicare over the next 7 years. Already today, seniors pay an average of 20 percent of their income for health care. This plan, will increase the premiums of a senior couple an additional $2,800 over the next 7 years.

This reconciliation bill continues to dump the burden on a middle class that is already getting clobbered. For more than a decade and a half, the median income in this country has been stuck in neutral—along with housing, the costs of education and health care are squeezing everything else out of middle-class budgets.

This bill increases health care costs of the retired parents of hard-working middle-class families. What are they going to do when grandma and grandpa come home and tell them that they will have to pay more out of their own fixed incomes to visit their own doctor? Will they turn their parents away? We all know the answer to that question, Mr. President—thank God, those middle-class families are going to remember their parents' sacrifices for them and for this country, and they are going to reach into their pockets and cover the new costs imposed by this bill.

At the same time, they are going to have to pick up the tab for more expensive college loans. It is the old squeeze play, Mr. President, and guess who is in the middle?

The saddest thing about this reconciliation bill may well be the missed opportunity it represents. I voted for the balanced budget amendment. I support not one, but two different budget resolutions that could have brought us to a balanced budget by the year 2002, the same target at which this reconciliation bill is aimed.

So I wish I could vote for a plan that would reach that goal. There are many possible plans, many possible paths to that goal. Some of those paths to a balanced budget would leave us a stronger, more competitive, and fairer country.

This one will not.

The question is not whether we should balance the budget. The question is not whether there must be sacrifice and change in the way we do business here. And for me, there is no question that we should make room for tax cuts, though more carefully drawn and targeted than those here before us today.

The question is how should we share the burden of the necessary sacrifice among the American people, and how should we allocate the necessary spending cuts to assure stronger, faster economic growth in the future.

This reconciliation bill has the wrong answers to those questions, Mr. President. It dumps the burdens of deficit reduction on those least able to bear it—deepening, not healing, the growing rifts in our society. And its short-sighted priorities—raising the cost of education, reducing health care and nutrition to the poorest children—weaken our ability to respond with a healthy, smarter workforce to the challenge of international economic competition.

I tried, along with a lot of my colleagues, to fix this bill. I offered an amendment that would give a $10,000 tax deduction to help middle-class families pay for the rising costs of a college education. I tried to reduce the fraud in the Medicare system—to save money that could have prevented some of the worst cuts this bill will impose.

I supported many other attempts to restore some fairness, some common sense, some more balanced priorities to this bill. Those attempts were defeated.

We are left with this fatally flawed bill.

And a final point, Mr. President. As someone who voted for the balanced budget constitutional amendment, I might be moved to overlook some flaws in a plan that offered real promise of bringing the Federal deficit down to zero. Unfortunately, this plan uses a bunch of budget gimmicks too long to list here to maintain an appearance of budget balance that may well never become a reality.

Most disturbing to me is the fact that only by counting the surplus in the Social Security System will this plan bring the deficit to zero in the year 2002. Without counting Social Security funds as part of the Federal Government's everyday income, something that is not permitted under our current budget laws, the Republicans' own Budget Office has told them that this budget will be out of balance by $105 billion in 2002.

But there are other problems, Mr. President—such as the heavy "back loading" of the spending cuts. This budget saves the real pain for the 6th and 7th years of this plan—a point when virtually no one here today would have to face the need to cut over $200 billion each of the last 2 years. Let us hope there will be more enthusiasm for those choices then, than there appears to be now.

This bill's gimmicks include asset sales—to make the books look better in the short run, but that will leave us poorer in the future. Again, this is a practice that should not be allowed under budget law, but it is in here nonetheless.

So this reconciliation bill does not express the values of the Americans I know, the values of the people of Delaware. It does not embody the principles of mutual obligation, of family continuity that the Americans I know share. It is an affront to any notion of family values.

It does not address middle-class Americans' valid concerns about the

future of our economy, and it does nothing to help us build the well-paid, high-productivity work force that will allow us to take control of our destiny.

Because I know we can do better, Mr. President, and because the American people deserve better, I will vote against this bill.

Mr. CHAFEE. Mr. President, this reconciliation bill is the culmination of the congressional budget process. It provides for a balanced budget within 7 years, a truly remarkable feat.

The next step will undoubtedly be direct negotiations between congressional principals and the President to reach a final budget accord. However, that cannot occur until this legislation has been passed in final form, and sent to the President. And the quicker, the better, in my view.

While I do not agree with every aspect of this reconciliation bill, the objective of achieving a balanced budget far outweighs any misgivings I have about various of its provisions. We do not always get everything we want in the legislative process. Achieving the greater good must also be a consideration; and, here, the greater good is to obtain a balanced budget.

For 33 straight years this Government has spent more than it has taken in. The cumulative consequence of our annual budgetary sins is an incredible $5 trillion national debt—literally, a mortgage on the economic future of our children and grandchildren. This is immoral, and must stop.

Every week, the Treasury Department must issue debt securities to keep the Government afloat. This past Monday, for example, Treasury borrowed $27 billion to cover maturing securities, and to raise needed cash. The Department must hold monthly, quarterly, and annual auctions just to maintain solvency. If we make no changes to the course we are currently on, we will run $200 billion deficits each year well into the next century. Fully 15 percent of our annual Federal budget—$235 billion—must now go to paying the interest on this massive debt, without a penny of that going to reduce the principal. Within 10 years annual interest costs will jump to $400 billion.

This must stop.

Those of us in Congress, who have struggled over the years to reverse this ruinous course, are rightfully frustrated. In 1985, we passed the Emergency Deficit Control Act, also known as Gramm-Rudman-Hollings. That law was supposed to deliver a balanced budget by 1991. It did not happen. In 1990, we passed the Budget Enforcement Act, establishing the discretionary spending caps and the pay-as-you-go rules for entitlement spending and tax cuts. The results are barely measurable. Despite our best efforts, deficit control continues to elude us.

Regrettably, we cannot balance the budget this year or next. However, with the bill before us, we will balance the budget by the year 2002. And, from there, we can hopefully go on to commence retiring the staggering national debt that will remain.

Is this bill perfect? No, it is not. I am not aware of any Senator who is satisfied with every aspect of this 1,900-page bill. In my view, at a time when we are struggling to reduce the deficit and asking people to sacrifice, the tax cuts are ill-timed. Earlier this year, during the debate on the Budget Resolution, a number of moderate Republicans—myself included—sought to discourage the tax cuts. That effort was complicated by the fact that the President's own budget called for tax cuts totaling more than $105 billion. During the Finance Committee deliberations last week, I was the lone Republican voting to eliminate or scale-back the tax cuts. Unfortunately, my view did not prevail.

I have also been clear in my objections to block granting the Medicaid Program. I took steps in the Finance Committee to ensure that, at a minimum, pregnant women and children with incomes below the poverty level, as well as the disabled, retain some minimum guarantee of services.

In that regard, I am pleased my amendment to clarify the definition of "disability" passed the Senate yesterday by a vote of 60-39. Similarly, I am gratified the Senate this morning rejected, by a vote of 21-78, an amendment to strike my guarantee provisions for low-income pregnant women and children, as well as the disabled. These votes place the Senate squarely on record in support of requiring states to guarantee services to these vulnerable populations.

As a result of negotiations with the majority leader, moderate Republicans have been able to obtain a number of other improvements to the Medicaid package over the past several days. These include retaining Federal standards for nursing homes, a set-aside for low-income Medicare beneficiaries, and requiring that the same solvency standards a state applies to private plans must also be applied to Medicaid plans. We were also able to obtain a provision to permit the integration of services for elderly and disabled individuals who are both Medicare and Medicaid-eligible. Finally, we also won inclusion of an additional $10 billion in funding to the States under the revised Medicaid Program, and $2 billion more in Medicare payments to teaching hospitals.

I am also pleased that we were able to reach an agreement with the majority leader to eliminate the proposed reductions in Federal student loan programs that most directly effect students, parents, and schools. This occurred yesterday with the passage of the Kassebaum amendment, which restores the interest exemption "grace period" for newly guaranteed students, retains the current interest rates on "plus" loans to parents, and drops the new fee based on student loan volume that schools would be required to pay. We must not burden families further by making student loans more costly.

Despite these improvements, I still have some serious objections to S. 1357. Nonetheless, I will vote for this reconciliation measure. Moreover, I will vote against any amendments which I believe will delay or prevent this legislation from reaching the President's desk at the earliest possible time.

The new fiscal year started over 3 weeks ago, numerous appropriations bills remain outstanding, and the short term continuing resolution we passed last month will soon expire. My objective is to expedite getting to the endgame—to the bargaining table with President Clinton—where the real negotiations and work can commence on the terms of a final agreement to balance the budget.

While one may or may not agree with this package, it definitely does not represent business as usual. In fact, it is a bold, politically risky initiative, without precedent in my memory. This is the first serious attempt to constrain the explosive growth of Medicare and Medicaid; to cap and reform farm subsidies; and to delay the cost of living adjustments for Federal retirees. These deficits are a cancer, and this bill is the chemotherapy. It's painful medicine, but it is necessary.

During hearings earlier this year in the Finance Committee, a number of distinguished economists testified on fiscal policy and the state of our economy. Nearly every one of these witnesses, including Federal Reserve Board Chairman Alan Greenspan, said that balancing the budget is the single most important step we in Congress can take to help the economy. The benefits that flow from balancing the budget include increased employment and wages, greater investment and productivity, and lower long term interest rates.

Once we get on a glide path to a balanced budget, which can only come from hard negotiations with the President, our economy will begin to see some of these improvements. As interest rates drop, borrowing to buy a house, or to finance a college education will become more affordable. With less government borrowing, there will be more capital available for small businesses to expand, and to hire more people. Real wages, now stagnant, will begin to grow again, and our standard of living will gradually begin to improve.

In summary, Mr. President, we must take bold steps now. We cannot continue to pile ever greater debt burdens on our children and grandchildren. Thank goodness we finally have a legislative proposal that will reverse this ruinous course.

Mr. FEINGOLD. Mr. President, the 2000 page reconciliation measure that the Senate passed is deeply flawed.

It is a massive work, and difficult to comment on in any serious, detailed way because making an assessment of the reconciliation bill really amounts

to assessing the individual components of the measure, as well as the proposal as a whole.

On both counts, this bill is troubling.

Mr. President, last May, during consideration of the budget resolution, I shared my own perspective about the direction we should pursue to balance the budget.

I argued that part of our effort should include changes to Medicare, and I identified areas where some savings could be realized.

I also noted that some in the Majority party were undermining our ability to make these reforms by failing to play straight with the American people, implying that cuts to Medicare are needed solely to keep the Medicare Hospital Insurance Trust Fund solvent.

That portrayal was, and is, entirely misleading, as, of course, it was meant to be.

For though some changes are needed to keep the Hospital Insurance fund solvent, that trust fund is not the entire story.

Savings in Medicare must also be found as part of the broader effort to reduce the deficit and balance the Federal budget.

Mr. President, I made this point last May, and I make it again today because I fear that the political spin doctors who have chosen to depict Medicare cuts as being apart and separate from the rest of the budget are doing a great disservice to the cause of deficit reduction.

In an effort to minimize the political fallout that is inevitable if Congress cuts Medicare, they may undermine any chance for a budget package that will achieve the consensus it must have if we are to make the politically tough decisions needed to balance the Federal budget.

Mr. President, we need to be honest with the American people.

The Hospital Insurance Trust Fund does need to be shored up, but that is not the only reason we need to find savings in Medicare.

Nor is the impending insolvency of the trust fund something new.

The Hospital Insurance Trust Fund has been within a few years of insolvency every year since 1970.

Mr. President, Congress has been dealing with that problem off and on for 25 years now. I understand that it will take about $90 billion in savings over the next 7 years to extend the trust fund's solvency to 10 years, about one third of the total reduction proposed by the majority part.

But the trust fund solvency is not the whole story, despite what some want the American people to believe.

Medicare clearly has an impact on the budget, and part of the reason cuts are being proposed stems from our Federal budget deficit. And rightly so.

Mr. President, Medicare is not Social Security. It should be on the table with other areas of Federal spending.

Mr. President, I have sponsored legislation that includes Medicare changes. Medicare changes were part of the 82+ point plan to reduce the deficit I offered during my campaign for the U.S. Senate in 1992.

More importantly, I have voted for legislation that contained significant, specific changes to Medicare twice during the 103d Congress.

The reconciliation legislation we passed as part of the President's deficit reduction package included nearly $60 billion in Medicare cuts.

I also voted for, and was proud to cosponsor, the bipartisan Kerrey-Brown deficit reduction package which also included significant, specific Medicare cuts.

And, Mr. President, I am willing to vote for Medicare cuts again. But not the $270 billion in cuts that are proposed in this measure.

Mr. President, last May I laid out a number of specific areas in which I thought savings could be realized. I was pleased to see a number of those ideas included in the Medicare provisions of the reconciliation bills that have been made by the Senate Finance Committee.

These included changes in the reimbursement of capital-related costs of inpatient services; repairing the flawed reimbursement formula that results in overpayments for some outpatient services; and, establishing a new prospective payment approach for home health care services.

I was pleased as well to see that the Finance Committee proposal includes some improvement in the reimbursement formula for Medicare HMOs.

The current formula rewards inefficient health care markets and punishes efficient health care markets and those areas, like many rural areas, that have inadequate service capacity.

For Vernon County, WI, about an hour west of my home, the Medicare formula would reimburse an HMO about $211 per month per enrollee. That is just a little bit more than half of the national average of $400 per month.

Mr. President, it should not surprise my colleagues to know that there are no Medicare HMOs in Vernon County. By contrast, in Miami, Medicare HMOs receive about $615 per month for every enrollee, nearly three times as much as in Vernon County.

At triple the reimbursement of Vernon County, it is little wonder that HMOs in places like Miami are able to offer the wonderful additional benefits to which proponents of Medicare HMOs point when arguing for expanded use of managed care in Medicare, benefits like prescription drugs, eye glasses, and dental services.

Though it remains to be seen whether or not the Finance Committee's changes to the formula will be sufficient, the blended formula approach appears to move in the right direction.

I also want to commend the authors of the Senate proposal, and of the Ways and Means plan, for asking higher income Medicare beneficiaries to pay a larger share of the cost of their Medicare part B services.

I proposed that very reform in 1992, as part of my 82+ point plan to reduce the deficit and balance the budget, and am glad to see it included in the two proposals.

Mr. President, I endorse this change. It should be made in order to help reduce the deficit.

But those who have sought to avoid criticism of this and other Medicare changes have used the pretense of the impending insolvency of the Medicare trust fund, and in doing so they have done no favors to the cause of deficit reduction.

Far from it.

By misrepresenting the facts to the American people, they have undermined and jeopardized the already politically difficult, but nevertheless necessary task, of reforming Medicare.

Mr. President, the problems created by deliberately misleading people about the real need for Medicare reforms are compounded by a number of flawed, even harsh provisions.

These include the across-the-board increase in part B premiums and deductibles.

Unlike the means-tested premium increase on upper income beneficiaries, which I support, the across the board increases in premiums and deductibles hits lower income seniors and disabled.

Mr. President, the median income of elderly households is less than half that of non-elderly households. And incomes for the oldest old are by far the lowest of any age group.

Households headed by someone aged 75 or older had annual median incomes of less than $13,622 in 1992—$4,000 lower than the next lowest income group, those of households headed by people between age 15 and 24.

And over one-fourth of the elderly households have incomes of less than $10,000 per year.

Mr. President, while the elderly are disproportionately poor, they also spend far more on health care as a group than anyone else, and this should not surprise us.

What may be surprising to some, however, is just how much our seniors do pay already even with Medicare. In 1995, the average older beneficiary will spend about $2,750 out-of-pocket for premiums, deductibles, copayments, and for services not covered by Medicare.

I might add, Mr. President, that these costs do not include the potentially crushing costs of long-term care which can total nearly $40,000 in some areas for nursing home care.

The across-the-board increases in premiums and deductibles will only add to these already high out-of-pocket costs.

Mr. President, let me add that under the current protections in our Medicaid program for lower income Medicare beneficiaries, some of the impact on the poorest of our elderly would be softened, but the reconciliation measure eliminates the guarantee of help for those beneficiaries.

Mr. President, rural seniors are among the most at risk under this legislation.

Because rural areas depend on Medicare to support an already inadequate health care service capacity, the massive Medicare cuts hit rural seniors and providers especially hard.

Making matters worse is the so-called Budget Expenditure Limit Tool, or "BELT" provision included in the bill which provides for automatic cuts in the traditional Medicare fee-for-service program if budget targets are not met.

Despite the improvements made to the Medicare HMO reimbursement formula, rural beneficiaries will continue to rely much more heavily on the traditional Medicare fee-for-service program than their urban counterparts, placing them at special risk because of the BELT provision.

Mr. President, as bad as the Medicare cuts are, the Medicaid cuts may be even worse.

Again, reforms to the current Medicaid program are clearly needed, not only to improve services for those lower income families needing health care, but also to reduce the pressure on our budget deficit.

But the $182 billion in cuts proposed in this bill are unacceptable, as is the loss of the current Federal protections that ensure safe nursing home care, guarantee help for the poorest Medicare beneficiaries, and provide the critical safety net of health care services to poor women, children, and the disabled of all ages.

Though spousal impoverishment protections were retained in the provisions reported by the Finance Committee, I am extremely concerned about the prospects for spousal impoverishment when this measure goes to conference.

Comments made by the Speaker indicate that spousal impoverishment protections are very much at risk.

Mr. President, I am equally concerned about reports of a little known change in the law that permits States to bill the adult children of those elderly needing long-term care services.

This smacks of a return to the days of bills of attainder and workhouses for the families of those unable pay their debts.

Much has been said on other protections that have been eliminated and I will not repeat the arguments that have been made.

But, Mr. President, it is apparent that those seeking to tame our Medicaid budget do not understand the underlying forces which contribute to the bulk of Medicaid growth, namely the rapidly increasing need for long-term care services.

Though the elderly and disabled make up about one quarter of the Medicaid population, they account for 59 percent of the Medicaid budget, with the bulk of expenditures for them going to long-term care services.

Pressure on the long-term care budget will only increase.

Our Nation faces a rapidly growing population needing long-term care services, a population which is disproportionately poor.

The answer, Mr. President, is not to turn Medicaid into a block grant program, imposing a unilateral cut, and shoving responsibility for those left without services onto the States.

The answer is fundamental long-term care reform.

Along with Senator PAUL SIMON, I introduced a comprehensive long-term care reform measure, S. 85, that would be an important first step in helping States deal with this growing problem.

It is based on the bipartisan reforms we made in Wisconsin during the 1980's, where we established consumer-oriented and consumer-directed home and community-based services that allow those needing long-term care to remain in their own homes and communities.

Those reforms helped bring Wisconsin's Medicaid budget under control, and saved taxpayers hundreds of millions of dollars. Between 1980 and 1993, while Medicaid nursing home use increased by 47 percent nationally, in Wisconsin Medicaid nursing home use actually dropped 15 percent.

This is the kind of national long-term care reform that is needed to tame the Medicaid budget, offered a version of that proposal as an amendment to this bill, but that amendment was defeated.

Mr. President, other provisions of the reconciliation bill are significantly flawed.

According to the Treasury Department, the bill's cuts to the Earned Income Tax Credit amount to nothing more or less than a tax increase on 17 million low-income, working Americans.

In my own State of Wisconsin, some 206,000 families will experience a tax increase of $330 on average in 2002, according to Treasury figures.

The assault on the Student Loan Program is also troubling.

The new limitation on direct lending programs adds real injury to this insult, making it even more difficult for families to send their children to college.

Mr. President, as disturbing as the provisions contained in the measure are those which are not such as the lack of effective change to the Federal Milk Marketing Order system.

Mr. President, the provisions in this bill with respect to dairy policy could not be any worse for the Upper Midwest. The provisions reported by the Agriculture Committee dramatically reduce the support price for milk, cutting the dairy price support program more than any other commodity on a proportionate basis. The dairy program which accounted for less than two percent of commodity program spending in 1994, took 9% of the cuts made by the Agriculture Committee in this bill. Those cuts could have been acceptable, Mr. President, if the inequities and market distortions of the Federal Milk Marketing Order system that have discriminated against the Upper Midwest had been addressed by the Committee.

Unfortunately, the Agriculture Committee abdicated their responsibility on Market Order reform and left the system intact, leaving in place a bill that pulled the rug out from under manufacturing prices for the Upper Midwest, and leaving in place the excessive subsidies for fluid milk in other regions of the country.

Unfortunately, Mr. President, this bill did not stop there. Instead, during floor action, the Senate granted its approval to the Northeast Interstate Dairy Compact which will allow six northeastern states to set artificially high prices for milk paid to their producers. Mr. President, to my knowledge, this is the first time that Congress has granted approval to a price-fixing Interstate Compact. The Compact erects walls around the Compact states, preventing lower cost milk produced outside the Compact region from entering those six states. It is protectionism in its worst form. This compact also provides a subsidy to Compact-state processors who are forced to pay this higher price for milk, in order to allow them to ship their products outside the compact and remain competitive. Those compact products, produced and exported with the subsidy, will then compete with products produced by processors and producers in other states that have not been granted this special privilege.

The Compact, Mr. President, is inherently market distorting, regionally discriminatory, and overly regulatory. I think this body will regret providing its approval to this arrangement.

Unfortunately, the Senate included another provision during floor debate that further worsens the inequities of the current system. The Senate approved a Class IV pricing scheme for inclusion in Federal Milk Marketing Orders which taxes all producers nationwide to support the overproduction of a couple of West Coast states. The Upper Midwest dairy producers and processors overwhelmingly oppose this provision because it adds just another layer of regulation to the already discriminatory milk marketing order system. It will reduce prices for all producers nationwide in order to pay for the surpluses produced on the west coast. Wisconsin producers, while being denied an opportunity to share in the benefits of the highest class of milk, Class I milk, will now be required to suffer the loss of the lowest priced class of milk, even though they are not responsible for its production.

Mr. President, this bill represents the worst possible outcome for the Upper Midwest dairy industry, and in particular, for Wisconsin dairy farmers. In short, Mr. President, the Senate approved some very bad policy which appears inconsistent with the principles of many members of this chamber and which is completely out of step with

the dairy marketing conditions of the 1990's.

Another area in which this bill remains far too silent relates to the lack of discipline imposed on our U.S. tax code. I am particularly disappointed at the weak effort made to address the rapidly growing spending done through the tax code.

Along with tax cuts and defense spending, these tax loopholes are sacred cows in this budget.

At $400 billion and growing, these tax expenditures are among the most important areas of Federal spending, and they are hardly touched in the reconciliation bill before the body.

Mr. President, many of the tax expenditures are certainly worthy, but others are hard to justify.

Just like the inappropriate subsidies made through direct appropriations, many tax expenditures not only put pressure on the budget deficit, they also distort the market place, lowering overall economic efficiency of the Nation.

But, despite the clear need for careful scrutiny in this area, made all the more timely by our common goal of reducing the deficit, tax expenditures are largely given a free pass.

Mr. President, it is obvious to all that the massive cuts to Medicare and Medicaid—nearly a half trillion dollars over the next 7 years—are far more than are necessary to address our budget deficit, and in fact make it more difficult to enact a budget plan that will balance the Federal books.

Nor can the health care system that provides care for the most vulnerable in our Nation be safely and prudently sustained with this kind of revenue loss.

The question occurs—why are these harsh cuts being proposed to the health care programs for our most vulnerable?

Mr. President, the inescapable conclusion is to fund a fiscally irresponsible quarter of a trillion dollar tax cut.

Mr. President, this tax cut not only jeopardizes the fundamental missions of Medicare and Medicaid to provide health care for retirees, poor women, children, and the disabled of all ages, it also jeopardizes efforts to balance the Federal books.

Mr. President, if there were no quarter of a trillion dollar tax cut, we could develop a bipartisan budget plan, including reductions in Medicare and Medicaid, that would balance the Federal books by 2002 or even sooner.

Mr. President, if there were no quarter of a trillion dollar tax cut, Medicare and Medicaid beneficiaries, and others, would be far more receptive to calls for sacrifice, especially if they are told, honestly and straightforwardly, that those sacrifices are intended not just to bolster the Trust Fund, but to help get our Federal budget out of the red.

More importantly, Mr. President, if there were no quarter of a trillion dollar tax cut, we could fashion a budget plan that would be politically sustainable for the time it takes to reach balance and eliminate the Federal budget deficit.

I have no doubt that the deep flaws in the reconciliation measure before us jeopardize the very goal the supporters of that measure profess—a balanced Federal budget.

Mr. President, I find similar fault, though to a much lesser degree, with the President's original budget as well as his later offering, both of which retain a fiscally reckless tax cut, though one which, admittedly, is much more modest than is being proposed by the Republican leadership.

We cannot afford either the Democratic tax cut or the Republican tax cut, and we could go a long way toward reaching a politically sustainable budget agreement that would balance the Federal books by 2002, and even sooner, if both parties scrapped their tax cut proposals and instead focused on eliminating the deficit.

Mr. President, contrary to the image portrayed by the spin doctors, it is the Senate that has produced the most significant reform in this Congress.

Bipartisan efforts in the area of gift ban, lobbying reform, and the beginnings of campaign finance reform all have their roots here, in the United States Senate.

I earnestly hope this body will eventually put together the kind of sustainable, bipartisan deficit reduction plan that will balance the Federal budget before 2002, and do so without harming the most vulnerable in society. The key is to eliminate the absolutely irresponsible quarter of a trillion dollar tax cut.

If we can agree to do that, restrain the growth of tax loopholes, and put the Defense budget back on the budget table, we will have moved a long way toward establishing a responsible glidepath to a balanced Federal budget, and elimination of the Federal budget deficit.

Mr. GLENN. Mr. President, I rise in opposition to the bill. Along with many Ohioans, I oppose the large Medicare cuts contained in the reconciliation bill and am concerned about their impact on all Americans.

MEDICARE AND TAX CUTS

This bill calls for a $270 billion cut to the Medicare program yet gives away $245 billion in tax breaks—which disproportionately benefit wealthy Americans. I find it alarming that in order to achieve a $245 billion reduction in taxes, we will slash services for seniors who choose to keep their current Medicare coverage.

This enormous Medicare cut will not balance the budget because it goes for a $245 billion tax break. To keep its Contract with America, Republicans will break our thirty-year contract that has successfully helped older Americans. The lesson here is the old story so often reflected in Republican economics: those who have, get; those who do not, get stuck.

The tragedy here is that this massive Medicare cut is unnecessary. We all know the 1995 Medicare Board of Trustees report projected that the Medicare Part A Hospital Insurance (HI) trust fund will run out of reserves in the year 2002. However, the Trustees also reported that only $89 billion in savings are necessary to restore the trust fund's solvency through 2006.

The budget plan before us, which was drawn up behind closed doors, achieves much of its $270 billion in Medicare savings by cutting spending in the areas of inpatient and outpatient services, home health, hospice and extended care, physician and ambulatory facility services, and diagnostic test and durable medical equipment. For the people in my home state of Ohio, this means there will be $8.9 billion fewer dollars for health care. For beneficiaries, this cut will mean increased premiums, deductibles and 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.

Now we have heard a lot of talk about how this side of the aisle is just engaging in demagoguery and class warfare. They tell us their bill is not slanted toward the wealthy. They say that this bill distributes tax cuts equally, regardless of your income.

But, the American people know better. They know that just because someone says it is so, does not make it so.

The real horror story of this reconciliation bill lies in the numbers. And the numbers the other side has produced just do not add up. The numbers do not add up because not only does this proposal cut medical care for America's seniors, but it raises taxes on the working poor by gutting the Earned Income Tax Credit (EITC). So you need to factor in the Republican EITC tax increase when making any distributional comparisons.

When you do that, you will find that people with less than $30,000 will actually be worse off, come tax time, under this plan. But very wealthy taxpayers would be big winners. The wealthiest 13 percent of taxpayers—those with incomes above $75,000—would receive 53 percent of the Senate tax cut. So the wealthiest 13 percent get 53 percent of the benefits. Those making more than $200,000 would gain an average of $5,088 per taxpayer in the year 2000. By contrast, those with incomes between $20,000 and $75,000 would receive an average tax cut of only $320.

MEDICAID

The budget reconciliation's treatment of Medicaid is truly alarming. Republicans would repeal the current Medicaid program and turn it over to the states as a fixed dollar amount block grant—eliminating the safety

net for more than eight million pregnant women, children, disabled and elderly Americans, and weakening federal nursing home regulations that protect the indigent and their families.

The federal government and the State of Ohio currently share in the funding of the Medicaid program and provide more than 1.85 million poor, elderly and disabled Ohioans with physician, hospital and nursing home care. Under the Republican proposal, Ohio would lose nearly $8 billion in federal Medicaid dollars over the next 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 toward long-term care for the elderly and disabled. These recipients are mostly middle-class Americans who are not aware that Medicare and most private insurance policies do not cover long-term care. Many become eligible for Medicaid when they quickly deplete their income and assets after entering a nursing home where costs average $3000 per month. Republican proposals would have abolished laws that protect spouses from having to sell their homes and assets to pay for nursing home bills, but due to widespread opposition both the House and the Senate wisely voted to retain spousal impoverishment protection.

However, the House version of the Republican Medicaid reform bill repeals federal standards for nursing home and institutional care. This plan repeals such essential standards as quality assurance systems, staffing requirements, restrictions on physical and chemical restraints, and nutrition guidelines. I was pleased to support a successful Senate amendment which provides for the continuation of federal nursing home regulations and I will urge conferees to maintain federal standards.

I support efforts to control the growth of federal health care spending, but I do not believe that Republicans should balance the budget, and give tax breaks, at the expense of our nation's most vulnerable citizens. Reform of Medicare and Medicaid should concentrate on strengthening and improving these important programs, not on squeezing out the maximum amount of budget savings. Today, when millions of Americans face limited access to medical care and live with the fear that an illness or loss of a job will leave them without health care coverage and expose their families to financial ruin, I feel it is essential to expand, rather than limit, access to medical care.

There has been a great deal of debate about priorities in the Senate. I am not convinced the plan before the Senate is a fair reflection of America's priorities. In fact, it is Robin Hood in reverse. This plan to take from the poor and give to the rich might make the Sheriff of Nottingham proud, but it will not balance the budget.

EDUCATION

The Republican budget cuts student loans by $10.8 billion. This makes it much harder for working families and their children to finance a college education. If these cuts became law, the school house door will be closed for many students willing but unable to afford a college education. Other students and their families will see their choices for an education narrowed.

The Republican proposal increases the interest rate on PLUS loans taken out by parents. The interest rate on parental loans would increase by 1 percent. Families considering PLUS loans are mostly working middle-income who make too much to qualify for full scholarships but not enough to write a check for tuition.

The six-month grace period for graduating students would be eliminated. Interest would pile up during that period and would be added to the loan balance. The bill also charges schools a 0.85% fee on loans taken out by their students. This new tax on student loans will be passed on to students and their families, either financially or through cuts in school programs and services.

I supported the amendment offered by Senator KASSEBAUM which restored some of the cuts in the student loan program, but it is only a step in the right direction and does not go far enough to ensure that working middle-income families can afford to provide higher educational opportunities for their children.

ENVIRONMENT

I oppose the provision to allow oil and gas leasing of the coastal plain of the Arctic National Wildlife Refuge (ANWR).

The coastal plain of the ANWR is one of our remaining ecological treasures, containing 18 major rivers, and providing habitat for 36 species of land mammals and more than 30 fish species. This pristine wilderness cannot be replaced. The impact of oil and gas leasing would forever alter this region. While proponents of leasing the ANWR argue that America's oil dependency requires this resource, they also advocate lifting the ban on exports of Alaska North Slope oil which is contained in this legislation.

Americans are committed to protecting national parks and public lands. This commitment extends to protecting the ANWR even if the revenues from leasing the area would be dedicated to deficit reduction. The U.S. Geological Survey recently reduced its estimate of the potential oil yield from this area; therefore, the revenue assumptions in this bill may be grossly overstated. However, Mr. President, the environmental value of this natural area is far greater than any short term economic gain from oil and gas development. I am also opposed to provisions in the bill that will override existing environmental laws and cripple public health and environmental protections.

At the same time, this measure contains provisions that continue to provide millions in annual federal subsidies to timber, mining, and ranching industries. These subsidies not only lack economic justification but often cause environmental damage. Several of these provisions have been previously defeated or have delayed consideration of other bills. Yet, in an effort to escape the notice of the American people and circumvent the legislative process these dangerous measures have been inserted into this massive reconciliation bill.

Although this bill contains provisions regarding the Mining Law of 1872, it fails to "reform" the patenting process and continues to allow the taxpayers of this country to lose millions in revenues from publicly owned lands. In contrast to federal coal, oil, and gas leases for which the government receives substantial royalty payments, hardrock minerals are virtually given away under a law that has not been significantly revised since 1872. This situation is unconscionable.

This measure also contains provisions from a federal grazing bill under consideration in the House. These provisions codify grazing regulations that were in place prior to Secretary Babbitt's proposed grazing revisions. Again, the American taxpayer and our nation's environment are the losers.

For all these reasons Mr. President, I have concluded that I cannot support the passage of this legislation and I urge my colleagues to oppose the bill.

Mr. DOLE. Mr. President, this debate has been lengthy, and I will not delay a final vote much longer. But I do want to take a minute or two to comment on what is a very historic day for the U.S. Senate.

I have cast over 12,000 votes during my years in the Capitol. Many of those didn't have a great deal of impact on Americans, and are hard to recall. But some votes you remember forever—they are the votes that touch the life of every American, and that change the course of history.

I remember the vote on President Reagan's historic tax cut bill—and the vote against President Clinton's historic tax increase bill.

I remember the vote which made Martin Luther King's birthday a Federal holiday—and I was pleased to lead the debate in favor of that bill.

And I vividly recall the vote authorizing President Bush to send troops to the Persian Gulf.

And no doubt about it, the vote we will cast in just a few minutes is one we will remember forever.

It is a vote for putting America on a path to a balanced budget.

It is a vote for low interest rates, so more Americans can own a house, buy a car, and send their children to college.

It is a vote that will give new life to the 10th amendment, because we are

transferring power out of Washington, and returning it to the people, where it belongs.

It is a vote for cutting taxes, and allowing American families to keep more of their hard earned money, and to make their own decisions on how best they can spend it.

It is a vote for securing, strengthening, and preserving the Medicare Program, on which so many of our seniors depend.

It is a vote for real, meaningful, and fundamental change.

And, above all, Mr. President, it is a vote for America's future. For our children and grandchildren—and their children and grandchildren.

It is a vote for the teenager who was in my office a few years back with a group of high school students from across the country. And this young man said to me, "Senator, everyone has someone in Washington who represents them. Someone speaks for labor, for the farmers, for business . . . but no one speaks for us. No one speaks for America's future."

I do not know where that young man is today, but if he happens to be listening, I want to tell him that at long last, someone is speaking for you, some one is speaking for American's future. This Republican Congress had the courage to look beyond the next election, and ask what is best for the next generation.

But I would also tell this young man that our battle on behalf of the next generation is far from over. President Clinton will veto the final reconciliation bill that will be reported out of conference, the forces of the status quo will do all in their power to return to business as usual.

President Clinton says he wants change. But his actions speak much louder than his words.

He says he wants to balance the budget, and at various times, he says he can do it in either 5 years, 10 years, 8 years, or 7 years—but each budget he has proposed doesn't balance the budget in 100 years.

He says he wants to cut taxes for the middle class, but he inflicted the largest tax increase in history on the American people.

He says he wants to save Medicare from its impending bankruptcy, but he has refused again and again to join in a bipartisan effort to do so.

Instead of providing leadership, the President has been content to sit on the sidelines and use increasingly harsh rhetoric to scare the American people.

And that rhetoric reached new lows yesterday with the sad remarks of the President's press secretary, which I will not dignify by repeating.

And there is no doubt that these past few days of debate on the Senate floor have created quite a few sound bites for the nightly news.

Some of my friends on the other side of the aisle would have you believe that each and every Republican Senator has it out for Americans in need.

I just wish that each time the media reported one of these phony accusations, they would follow it up by reporting the truth.

And the truth is, the Republican plan reins in government spending by slowing its rate of growth. The truth is, more than 70 percent of our tax cuts go to working families making less than $75,000 per year. The truth is, the Republican budget allows Medicare to grow by an average of 7 percent per year. Medicare beneficiaries will receive more money next year than they do this year, and they will keep on receiving more year after year after year.

It truly shows you just how ingrained the status quo is here in Washington, how accustomed the liberals have become to spending American's money, when they attack us for wanting to slow the budget's rate of growth.

I remember a few years back, when we were having a serious national debate on the proposal by former Senators Rudman and Tsongas—one a Republican and one a Democrat—to freeze the Federal budget. Just think what the rhetoric would be like if we had proposed a freeze. But we have not. Instead, we've proposed limiting Government's growth to $350 billion over the next 7 years.

So I say to my friends in the media: You have a duty to report the truth to the American people. Report that Medicare will grow, not get cut. Report that Republicans are giving working families a tax cut, and not a giveaway to the rich.

Let me close by saluting Senator DOMENICI for the outstanding job he has done throughout this debate. I know how much time and energy he has invested over the years in the quest for a balanced budget, and I like to think that I know how much this vote means to him.

Congratulations, as well, to Senator ROTH, for his leadership in achieving the historic tax cuts contained in this budget, as well as the Medicare provisions, which involved a tremendous amount of work.

Mr. President, it's no secret this vote is not the end of the budget process. We have repeatedly said that if President Clinton has constructive ideas to offer, we are ready to listen. But, with or without the President's help, we're determined to deliver the change the American people voted for, determined to move America forward, and determined to continue speaking for America's future.

The PRESIDING OFFICER. Is there any further amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2491, the House-passed reconciliation bill; that all after the enacting clause be stricken and the text of S. 1357, as amended, be inserted in lieu thereof. Further, I ask unanimous consent that the bill be read for the third time, and the Senate then vote on passage of the bill, with the above occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me just indicate to my colleagues there will not be a session on Monday. If there is, it will be pro forma only. Let me thank my colleagues for their cooperation. This has been a very important, very historic vote. There is a lot taking place here on this vote. I hope we can have a unanimous vote.

Mr. DOMENICI. Midnight.

Mr. DOLE. Midnight.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—52

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bond	Grassley	Pressler
Brown	Gregg	Roth
Burns	Hatch	Santorum
Campbell	Hatfield	Shelby
Chafee	Helms	Simpson
Coats	Hutchison	Smith
Cochran	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	
Frist	McCain	

NAYS—47

Akaka	Bumpers	Feingold
Baucus	Byrd	Feinstein
Biden	Cohen	Ford
Bingaman	Conrad	Glenn
Boxer	Daschle	Graham
Bradley	Dodd	Harkin
Breaux	Dorgan	Heflin
Bryan	Exon	Hollings

Inouye	Levin	Pryor
Johnston	Lieberman	Reid
Kennedy	Mikulski	Robb
Kerrey	Moseley-Braun	Rockefeller
Kerry	Moynihan	Sarbanes
Kohl	Murray	Simon
Lautenberg	Nunn	Wellstone
Leahy	Pell	

So, the bill (H.R. 2491), as amended, was passed.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. I ask unanimous consent that S. 1537 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to take a moment, if I might, to thank all Senators on both sides of the aisle, especially my friend and colleague, the chairman of the committee, for his consideration all the way through this process. We have had a great deal of help from the leader, from Senator DORGAN, Senator KERREY, Senator FORD; the whole Democratic leadership has been very helpful and supportive all the way through this most difficult process.

In the end, though, as we always do, and should, I will take time out to thank the very dedicated staff. I have been on the Budget Committee for the 17 years that I have been in the U.S. Senate. I think we have been particularly well blessed with excellent staff on both sides of the aisle that work very, very well together.

So I congratulate the chairman of the committee, whom it is my pleasure to work with. We will be working together in the future on a whole series of matters.

I want to end up tonight by taking a moment to thank the Democratic staff members of the Budget Committee for the truly outstanding job they did during the consideration of the reconciliation bill and through all of the procedures that we had in the Budget Committee. I would like to extend my appreciation, therefore, on our side to the key members of our staff: Amy Abraham, Andy Blocker, Kelly Dimock, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Bill Dauster, Jim Klumpner, Nell Mays, Sue Nelson, John Rosenwasser, and Jerry Slominski.

Mr. President, these were outstanding people that do an outstanding job. I thank them for their dedication, talent, and for all the help that they give not only to the ranking Democrat but all Democratic members of the committee. I thank them very much.

If I did, I did not leave out Phil Karsting intentionally. The leader of that group, of course, is Phil Karsting, who has been there for several years now as the central director of everything that we do on the Budget Committee. He has been sitting here advising Members of the Democratic side and working closely with many people on the other side of the aisle. I have always been particularly impressed with the good working relationship that Bill has with the Bill on that side. That is what makes things work in the end. I am very proud of all of the staff.

Mr. DOLE. Mr. President, I just want to thank all Members, as I did before. I thank the Democratic leader. We were able to work together. We had 58 votes. We were on the bill 42 hours. As the Senator from West Virginia pointed out, we had a record number of votes today—39. So we exceeded both records that the Senator from West Virginia talked about earlier.

I particularly thank the distinguished Senator from New Mexico, Senator DOMENICI, his staff, my staff, and all the staff on this side. Also, a special thanks to the Senator from Alaska, who has been presiding much of the day. We appreciate the way he has handled the duties of the chair. It has made it much easier for all of us.

Also, I thank my colleague from Mississippi, Senator LOTT, who has actively been working on a daily basis to find out how many votes we would have on these various amendments, and for all the cooperation we have had on this side of the aisle.

This is a historic vote. We have to go to conference, and it is not going to be easy. We need to pass the conference report. There is an indication that the President may veto the bill. I hope that is not the case. Any way you look at it, this is a historic vote. We watched the House yesterday sail through theirs in about 6 or 8 hours. It took us a little longer, but the results were the same.

Mr. President, 52 out of 53 Republicans have voted for this historic package, which is going to mean a lot of things to a lot of people, whether it is preserving and strengthening Medicare, or reforming welfare, or cutting taxes for families with children—not the rich, but families with children and, most importantly, balance the budget by 2002. I do not care where you are, who you are, what your politics are, people want to balance the budget. That is precisely the reason we have gone through this effort day after day, week after week, in all the committees, and that is why all the chairmen and all the others have been working so hard.

Now it becomes a special responsibility for the Budget Committee chairman in the conference, working with Republicans and Democrats. We are not going to waste any time. We are going to start on Monday. We have work being done this weekend by the staff. Monday, I will meet with the Speaker, and we will be talking about how we can speed up the conference and how we can, if possible, meet the deadline by November 13 to have a conference report. So we are working on the conference already. We have had staff looking into some of the areas in sort of a pre-conference effort. I believe we will be able to complete our work.

Again, I say to the President of the United States: If you want to make some arrangement, or negotiate, whatever, I think both the Speaker and I have said, again this morning, we are prepared to meet. We think it would be a little presumptuous of us to call the President. But if he wants to call us, obviously, we are more than willing to sit down with the President of the United States to talk about what we are doing, what he hopes to do and see if there is any common ground.

Again, I thank all my colleagues.

Mr. DOMENICI. Mr. President, might I thank Senator DOLE for his kind words, and might I say to more people than I can mention how much I appreciate their efforts. I say with a bit of pride that the Budget Committee is frequently not liked around here. They seem to always be telling somebody what to do. Those who serve on the Budget Committee know that this all started there. Without that budget resolution and this process, we would clearly not be changing the country from the way it is being run today, from the way Government is run to the way we would like it. I am very proud of it.

I have been working at it about 22 years, and I never thought we would get to this night. We still have some work to do, but there can be no doubt that we have proven that using the procedures of the U.S. Congress, as onerous and difficult as they are, we can get a balanced budget; that we can change programs to meet the goals and objectives of our people, and to do that which is best for America.

It is obvious to everyone that America cannot continue to spend $482 million a day more than it takes in. The real goal is to pay our bills as we accrue those bills, and let the adults take care of the problems of our country and not pass them on to our children and grandchildren. That is the issue. Do we want strong money and a strong economy, lower interest rates and our standard of living going up? Or do we want to watch it dwindle away, little by little, as that gigantic deficit will do? We have shown that we can change things enough to change the course of the economic history of our Nation, I think, for the better.

Obviously, none of this could be done without some fantastic staff people. I do not have a list of all of ours, but I am going to just say that without Bill Hoagland at our side, we probably would not be here. He comes up with the ideas, and I get credit for it, or Senator DOLE does, or even Sheila does. Everybody gets ideas from Bill Hoagland, and they are right more times than not.

There are a few Senators to thank. Hard work was done in one committee, the Committee on Finance. I am sorry

we instructed you to save so many dollars and cut so many taxes. But the Finance Committee, led by BILL ROTH, did a magnificent job. That was obvious here today. A special thanks to SPENCER ABRAHAM, a member of our committee, who worked hard. I asked him to do a special job for me, in a special way, and he did it very well. I thank him so much for that.

With that, let me say one more time, as I have many times in the past, thanks to Senator EXON, who I frequently slip and call Governor, for the wonderful job that he does in representing his side of the aisle in getting this work done.

He and his staff also are nothing but quality and excellence, and to the minority leader who is standing here now, I want to say thank you. It was difficult at first to reach some accommodation.

It was sort of like we were shadowboxing maybe for the first 7 or 8 hours. In fact, you might have wondered whether we would ever get in the ring. That was by design. Yet, you got much of what you wanted by way of votes for your people, and we got what we wanted: Final passage of a great bill.

I want to begin by thanking my colleagues. I wish to thank the staff and all members of the Budget Committee for their hard work. I would also like to thank all of the committee chairmen who worked so diligently to meet the terms of the budget resolution and add flesh to its bones.

Also, I would thank the able ranking member, Senator EXON, he is a fine friend and an able adversary. The Senate will be a poorer institution when he departs next year.

And, finally, I would like to take a moment to acknowledge the constant and determined leadership of the majority leader, Senator DOLE. We all know, he is a remarkable American. And his commitment to keeping his promise to the American people—to give them the first balanced Federal budget in 26 years—is the reason we are here tonight. As always, he has kept his word and has provided this Nation the honest, effective, and steadfast leadership that has defined his tenure in this body.

I speak about Senator DOLE's leadership because that's what the vote we are about to cast is all about. Leadership. Honest leadership that protects America today, and tomorrow.

Leaders, it's been said, are the custodians of a nation. Of its ideals, its values, its hopes and aspirations. Those things which bind a nation, and make it more than a mere aggregation of individuals.

But governing for today is much easier than leading for the future. It does not take a great deal of talent or courage to solve the immediate need. It's not a lot harder to pave a pathway for the future.

Yet, we who serve in public office have a responsibility to protect the future. We must work on behalf of those who will follow us, our children and grandchildren. We are the trustees of their future, of their legacy of their opportunities.

Leadership requires courage. It requires boldness and foresight to safeguard a nation's ambitions and confront its challenges.

President John Kennedy put it this way when he said: "To those to whom much is given, much is required." And he reminded us that, as public servants, we would be judged, at least in part, by our courage.

I couldn't agree more.

Eight months ago my Republican colleagues and I began a courageous effort to throttle runaway Federal spending and give the American people the first balanced Federal budget in more than a quarter century.

We knew it would be difficult. We knew it would require determination and endurance. But we had promised the American people we would balance the budget and put an end to the persistent deficit spending that has been bleeding our Nation dry.

A deficit growing by $482 million a day; $335 thousand a minute; and $55 hundred every second. Let me repeat that last figure again—our deficit is currently growing at $5,500 a second.

Deficit spending is draining the economic lifeblood of our country.

It's heaping mountains of debt upon our children and which will drag them down. We are irresponsibly shackling our kids with our bills. And, left unchanged, they will be the first generation of Americans to suffer a lower standard of living and less opportunity than their parents.

Yet, if we pass the budget before us, we can reverse this tide.

This budget will restore our Nation's fiscal equilibrium and preserve America as the "land of opportunity" for this and future generations. It reflects a commitment to fiscal responsibility, generating economic growth, creating family-wage jobs, and protecting the "American Dream" for all our citizens—young and old alike.

This is not just rhetoric. A recent DEI study concluded a balanced budget would boost America's yearly output by 2.5 percent over the next 10 years. And it would mean 2.4 million more jobs by 2005.

Further, a recent GAO study suggests that an average family's income will increase as much as $11,200 over the next 30 years. And the CBO says interest rates will decline by as much as 1.7 percentage points by 2002.

That means less debt for our children and more money in the pockets of working Americans today.

Opponents of this budget have employed every trick, every political maneuver, and every scare tactic to halt our march to a balanced budget and forging a more efficient and more responsive Federal Government.

But here are the unvarnished facts:

Under our budget, Federal spending will continue to grow, We'll spend $12 trillion over the next 7 years. That's only $890 billion less than we would otherwise spend.

We balance the budget without touching Social Security.

This budget shrinks the Federal bureaucracy, eliminating many Federal departments, agencies, and programs.

We move money and power out of Washington and back to citizens in their States and communities.

This budget reforms the welfare system while maintaining a safety net for those in true need, especially children.

And it preserves, improves, and protects Medicare.

We began this debate by calling for unity in this effort. It was our hope that all of us, Republican and Democrat alike, would shoulder our basic responsibilities. We asked colleagues on both sides of the aisle to work together in the bipartisan spirit the American people are looking for.

We only requested that we move swiftly, while we still have time, to confront the debt crisis that threatens to suffocate our nation's vitality and snuff out its economic growth.

But rather than cooperation, we were met with confrontation. That's too bad. Because at every turn in this process, this Senator has tried to reach out to my Democrat colleagues and to the White House in hopes they would work with us.

Yet, they declined. I believed they did so because they underestimated Republicans stamina and the determination of the American people on this issue. They didn't think we would do it. They thought we would fold.

Instead, we persevered. We did something rare in this town. We have kept out word, stuck to our objectives, and, despite the misleading rhetorical flack fired by the guardians of the status quo, kept our word.

So as we prepare to take the final vote on this package I want to say to my colleagues you may not agree with every item in this package. There may be some portions you would like to change. That may happen.

But I want to also remind you that it is an honest, straightforward balanced budget. No smoke. No mirrors. No rosy scenario. Just balance.

The President says he'll veto this budget. I wish he wouldn't but I think I understand the game the White House is playing.

He says he has a kinder, gentler budget that somehow magically gets to balance while spending nearly $300 billion more in domestic programs. He says he can get to balance by spending more and cutting less.

Sound phony? That is because it is. The President's so-called budget hides $475 billion in blue smoke and mirrors.

It's a political document, hastily thrown together last June in response to Republican determination and our passage of the budget resolution.

That is why if we don't pass this budget tonight, we will not have a balanced budget. Because the reality is

that throughout this debate we have had to drag this White House kicking and screaming toward a balanced budget.

The chronology is clear. This White House opposed the balanced budget constitutional amendment, its first budget waved the white flag of surrender at the deficit, and, as I said, it only offered a fig-leaf balanced budget after Republicans passed the real thing.

I believe there is still hope. I am ready to meet with budget leaders at the White House anytime so they might join with us in fashioning a budget that gets to balance in 7 years.

I'm ready to do it now. Tonight. This weekend. Yet the White House has it's veto strategy and, apparently, feels we must go through this little mating dance before we get down to business.

But if we don't pass this budget tonight that will never happen. The born-again budget balancers at the White House will quickly fall off the wagon and deficits will continue.

So we can not be swayed by veto threats. We must continue to move forward.

Senators, this is a historic vote. I've waited years for this vote. It is one more step toward the balanced budget the American people have been screaming for. It is a vote for responsibility. It is a vote for accountability. And it's a vote to stop this Government from borrowing $5,500 a second to buy everything it wants and begin considering what it can afford.

Admiral Halsey told us: "There aren't great men. There are just great challenges that ordinary men like and me are forced by circumstances to meet."

Tonight this Senate faces a great challenge. Let us—ordinary men and women—have the courage to meet that challenge and, in doing so, preserve America's promise of opportunity.

I ask unanimous consent that the bill that we passed be printed. We do not have it printed yet.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The bill was not available for printing. It will appear in the RECORD of Monday, October 30, 1995.]

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Nebraska for the remarkable job that he did in representing our side during these very difficult days. He has worked with all of the Members of this caucus, as he always does, with professionalism and leadership.

I personally appreciate the contribution that he has made, along with his excellent staff. They have done all the work on this bill from our side in representing us and they have done an outstanding job. I applaud them as well.

Mr. President, the tragedy underlying the passage of this reconciliation bill is that it fails completely to reflect political consensus. We all agree on the need to balance the budget, but there has been no effort by the Republican majority to address Democrats' concerns and the very real concerns of the American people.

We have stated time and again that we want to work with the majority to produce a bipartisan solution to the deficit problem. The President of the United States has held out his hand in an offer of cooperation. Instead of cooperation, we have been cut out, shut out, and our concerns have been ignored.

Along with us, the American people have been shut out of this process, and their values have been trampled upon. As people are realizing how they and their families will be affected in a real way, they are increasingly rejecting the Republican budget plan.

The plain fact is that Democrats have a clear and successful track record of reducing the deficit. In 1993, we achieved $600 billion in deficit reduction without a single Republican vote. The result is that the deficit, as a percentage of the economy, is this year at the lowest level since 1979.

The deficit has fallen for 3 years in a row for the first time since Harry Truman was President. In fact, the 1993 economic plan is working better than even the Administration or the Congressional Budget Office had projected. That is because the economy has performed better than projected since 1993 due to the success of the President's economic plan.

While we seek to balance the budget, we also understand that there is a right way and a wrong way to do it. The budget plan before us is the wrong way. Unlike the Republicans in 1993, this year we offered to cooperate in good faith so long as our basic concerns were on table.

We said $270 billion in Medicare cuts to pay for $245 billion in tax breaks for the wealthy was unacceptable. And we asked that the priorities in this budget be changed to protect children, the elderly, those with disabilities, working families, rural America, and the environment. This debate is about people: seniors who need Medicare, young people who need an education, families who need a fair income—and greater stability, and rural people who want to preserve their way of life.

That is why we are here. It is what unites us as Democrats. It is why we have fought so hard and so long against the harmful provisions of this bill.

None of our concerns was addressed. The majority did not budge one inch on any of the extreme proposals they made.

As a result, this budget is "DBA"—dead before arrival—and is certain to get the veto it so richly deserves.

This is a "reconciliation" bill in name only. Certainly there was no reconciliation with Democrats. There were no hearings, no consultation with Democrats, and virtually no time for debate.

Senate Republicans held a private markup in the Finance Committee, locking out committee Democrats for the first time in history. The congressional majority has exercised rigid party discipline, forcing every one of its members to march in lockstep even if they disagree with the fundamental direction of their leadership.

The Senate received its first look at this package only one week ago. It was not printed and available to all Senators and the public until this Tuesday. The result is a 2000-page abomination we are only now beginning to understand.

This far-reaching, extreme package is being rushed through Congress before public opposition can bring it down. The authors of this budget have not built a consensus with anyone, except themselves. They claim a mandate for their radical course—as if wishing would make it so.

This budget does not reflect the hopes and needs of most Americans. Nor have we reconciled our problems with the deficit.

Under this budget, in the year 2002, there will still be a deficit of over $100 billion, and we will use Social Security money to pay it off. Maybe that is why 80 percent of the American people, in a recent poll, said they believe this bill will not balance the budget. They know it, and we know it.

The only reconciliation that has taken place has occurred in the Speaker's office—in backroom deals between the right and the far right—and between the Republican leadership and a line of special interests that just keeps getting longer. And longer.

Mr. President, our country deserves better than this. This is not what the American people voted for last year.

The American people did not vote last year to cut $457 billion in health benefits to give tax handouts to those who do not need them. They did not vote last year to cut education to millions of students so that some of America's largest and wealthiest corporations could pay no taxes at all. The American people did not vote last year to raise taxes on American families making less than $30,000 so the richest Americans could pay $6,000 less. Nor did they vote not to have a farm bill for the first time in 80 years.

They did not vote for this budget plan then, and they do not support it now.

Mr. President, this bill is not a product of the reconciliation process. It is an abuse of the reconciliation process.

What is in this monstrous package? It contains the largest health care cuts in American history. Two hundred seventy billion dollars in Medicare cuts alone. The mask is off those who have argued that their intention is to "save" Medicare. Their real purpose is to dismantle Medicare.

Three days ago the Republican leaders of both Houses of Congress made clear their real intentions. One stated that creating Medicare was a mistake in the first place, and the other said that Medicare as we know it will "wither on the vine." Their recent

statements help explain why they insist on cutting $270 billion from Medicare, when only $89 billion is needed to restore its solvency for the next eleven years. As a first step toward abolishing the program, they are cutting Medicare three times more than necessary to pay for their "crown jewel" offering to the special interests: $245 billion in tax breaks.

Mr. President, this attack on Medicare reveals how far out of touch with the American people the proponents of this bill have become. Medicare is one of the greatest success stories of our time. The American people know that, even if some of their politicians have forgotten.

In 1965, before the creation of Medicare, 46 percent of seniors had health care coverage. Today, 99 percent are covered. Does the majority want to bring us back to the "good old days" when only half of our senior citizens had health insurance? It would be heartless to go back to the age when our older citizens suffered needlessly from disease and even premature death because they had no access to health care.

The consequences of these Medicare cuts will be severe. Hospitals will be forced to close. Couples will be forced to pay an average of $2,800 more for health care by 2002. Clearly, Medicare is being used as a piggy bank to fund tax cuts for the wealthiest Americans, with no regard to the damage to the health care of senior citizens in America.

This bill dismantles Medicaid. At a time when we have unacceptably high numbers of Americans with no health care coverage, it would deprive an additional 36 million Americans guaranteed health care coverage under Medicaid.

A recent study by the Consumers Union and the National Health Law Program estimates that 12 million Americans—half of them children—would lose their health care coverage under this proposal. Surely the majority doesn't think the American people voted last year to increase the number of uninsured.

Older Americans and their families also have reason to fear the destruction of Medicaid. One-half of the nursing home patients in the U.S., including over 1 million senior citizens, rely on Medicaid. What will happen to the quality of their care under this bill? What justifies putting the spouses and adult children of nursing home residents at risk of bankruptcy?

That is not what the American people voted for last year either.

The majority is telling these people and their families, "You're on your own."

Republicans say, "Don't worry about those details. Think about the tax relief in this bill." But there is no tax relief in this bill for average Americans. There are only new tax burdens for them.

Despite the Republican promises, the typical family in this country earning less than $30,000 will see their taxes increase under this bill. And half of all families in the 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 majority for tax breaks that benefit the wealthiest Americans and large corporations. The richest one percent of Americans—those earning over $350,000—will get an average tax break of $5,626.

Many large corporations will pay no taxes at all under this bill.

Not only do these generous handouts to the wealthy require huge cuts in education and health care and so many other areas, they are fiscally irresponsible. The tax breaks will add $293 billion to the debt over the next 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 budget. To those who profess that this effort is intended to save our children from the crushing burden of our debts, I would ask them to explain this hypocrisy.

For all the talk we have heard about how this plan is intended to benefit children and future generations, the actual provisions of the bill reveal a different story.

The bill launches an assault on education in this country. By cutting billions for student loans, this bill closes the door on a college education for many Americans.

Other children's priorities are savaged as well. By 2002, up to 6.5 million children could lose health coverage. Food stamps will be cut. Foster care payments will be capped, threatening to throw us back to dependence on the orphanages the Speaker proposes. Countless children threatened with abuse may never benefit from investigations of their situations. This bill plays a shell game with the $3 billion in child care funds that were included in the Senate welfare reform bill. It cuts Title XX, the states' primary source of child care money, by $3.3 billion. It is "Home Alone II" for children whose families are trying to work their way off welfare.

Another giant item stuffed into this package is the 1995 farm bill, which drops a bomb on rural America. For the first time in history, the farm bill was included in the reconciliation package. There were no hearings on the Republican plan.

The bill cuts farm programs by 25 percent. Net farm income will decline under this measure by $9 billion. This devastating blow comes on top of the other hits on rural America in the bill —ravaging rural health care and closing hospitals, tax increases on working families, elimination of rural educational opportunities.

Taken as a whole, this package amounts to a raid on rural America that will devastate our rural way of life—perhaps forevermore.

Have we learned nothing from our recent history?

This bill asks us to take another riverboat gamble, like the one Ronald Reagan took when he called for huge tax breaks for the wealthy in 1981. We all lost that gamble when deficits soared in the 1980s as a result. In fact, if it were not for the cost of interest payments on the debt built up under Presidents Reagan and Bush, the budget would be balanced today.

No wonder the American people fear another roll of the dice. According to a recent poll, the public rejects the tax break proposals in this budget by a margin of nearly 3 to 1. The American people have learned a costly lesson from Reagan's riverboat gamble. Eighty-one percent said they believed that even if the Republican plan is enacted, the budget will not be balanced by 2002.

We are saying no to another riverboat gamble, and we will do so with one voice. Unlike 1981, every Senate Democrat will oppose this budget.

This budget is fundamentally flawed. It does not strengthen America. It weakens America. It does not bring us together, it moves us apart. The "haves" will have more, and the rest will have less.

Worst of all, this budget does not reflect the priorities of the American people. The American people reject the idea of cutting taxes before the budget is balanced. They disapprove of the Republican Medicare plan. As the American people are learning whose side this budget is on, they are demanding we change it.

Senate Democrats offered a series of amendments to correct these gross inequities in this bill, both in committee and on the Senate floor. Virtually every one was defeated on a party-line vote. As a result, the destructive, dangerous excesses contained in this bill will not receive a single vote from our side of the aisle. This bill deserves a veto by the President of the United States—and vetoed it will be.

This budget is mean and extreme. It rewards the rich and ravages the rest. It punishes families who need our help most to pay for tax breaks for those who need handouts the least.

It is the wrong plan, for the wrong reason, done the wrong way, to help the wrong people.

Mr. LOTT. Mr. President, much of what the minority leader just had to say has been said over and over again. It, I think, has been answered sufficiently, but it is very hard to sit here and listen to that speech after all that we have been through for the last three days.

MORNING BUSINESS

Mr. LOTT. In the interest of wrapping up business after a historic day, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-JAPAN AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the critically important issue of United States aviation relations with the Government of Japan.

Last month, the United States commenced talks with the Japanese aimed at liberalizing the transpacific cargo market. This is a welcome development and I hope an agreement liberalizing cargo service opportunities can be reached by no later than March of next year—the mutually agreed upon timetable. Clearly, consumers of cargo services on both sides of the Pacific would be the big winners if such an agreement is struck. Talks on more contentious passenger carrier issues have not been scheduled.

As should now be clear from the numerous floor statements I have made in this body in recent months, I have a keen interest in United States-Japan aviation relations. As Chairman of the Committee on Commerce, Science, and Transportation, I will continue to make it a priority. At the outset of my remarks today, let me emphasize several related points. Although these remarks refer primarily to passenger carrier issues, they apply with equal force to cargo relations with the Japanese.

First, from a long-term perspective and due to its key strategic location in the Asia-Pacific aviation market, aviation relations with the Japanese unquestionably are our single most important international aviation relationship. At the same time service opportunities in Japan are expanding, air service markets in Asian countries best accessed through Japanese gateway airports are growing at an astounding rate.

Simply put, meaningful participation in the rapidly expanding Asia-Pacific market is absolutely critical for the long-term profitability of our airline industry. For instance, the International Air Transport Association estimates that between 1993 and 2010 scheduled international passenger service in Vietnam will grow at an average annual rate of 17.3 percent. International air service opportunities in China are expected to grow at an annual rate of 12.6 percent over the same period. Overall, it is expected the Asia-Pacific market will account for approximately 50 percent of world air traffic by 2010.

Second, geographic factors coupled with the limited range of commercial aircraft make it essential that carriers seeking to effectively serve these rapidly expanding Asia-Pacific markets can provide that service from Japan either directly or indirectly through a Japanese code-sharing partner. As distinguished from the bottleneck at London's Heathrow International Airport, overflight to markets beyond Japan is not an option since the distances to these markets from the United States are too great. Moreover, as shown by recent unsuccessful experiences, serving the Pacific-Asian market through other gateway countries does not appear to be a viable alternative.

Third, aviation relations with Japan are a very important national trade issue and it is imperative they be treated as such. Indeed, discussion of air service opportunities to and beyond Japan is one of the United States' most important trade issues being discussed with any of our trading partners. The stakes in these talks are enormous. For example, the United States currently enjoys an approximately $5 billion net trade surplus with Japan for passenger air travel in the Asia-Pacific market.

I cannot emphasize strongly enough the importance of our current and future aviation negotiations with the Japanese. Handled properly, air service negotiations with the Japanese could enhance the ability of our passenger and cargo carriers to participate in the rapidly expanding Asia-Pacific market. Handled poorly, the adverse trade consequences could be colossal.

Fourth, what the Japanese are seeking in these negotiations is not to level the playing field as they suggest. Let there be no mistake, the Japanese are seeking no less than to tilt the competitive playing field in such a way as to enable their less efficient carriers to compete more effectively against our carriers. Our passenger carriers serving the Asia-Pacific market have operating costs approximately half those of their Japanese counterparts.

The Government of Japan claims the United States-Japan bilateral aviation agreement is fundamentally unfair and is solely responsible for the greater market share our passenger carriers enjoy on service between the United States and Japan. The facts do not support such a position. Just 10 years ago, under the very same bilateral agreement the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than United States competitors. What is the truth? As a June 1994 report by Japan's Council for Civil Aviation noted, the fact is our carriers became more competitive by lowering operating costs while Japanese carriers continue to be high cost carriers.

Similarly, the Government of Japan claims our carriers have abused their beyond rights and unfairly dominate beyond markets. Again, a claim without merit. Currently, Japanese passenger carriers have a 34 percent share of the Japan-Asia market while United States passenger carriers have just 13 percent of that market. Moreover, our cargo carriers have only approximately 14 percent of the Japan-Asia market. The facts speak for themselves.

Having made these points—points I believe are critical to the United States-Japan air service relations debate—let me turn to the question of what our goal should be in current and future negotiations with the Japanese. Uncharacteristically, our carriers seem to speak with one voice in saying we need to seek to liberalize passenger and cargo carrier opportunities with the Japanese. There is disagreement, however, with regard to what strategy our negotiators should pursue to accomplish this goal.

In recent weeks it has become readily apparent the debate regarding negotiating strategy will be shaped by two fundamentally different views. To better understand these views, one must remember that our carriers which currently serve Japan can be separated into two distinct groups based on the types of service they are authorized to provide.

The first group of carriers are the so-called MOU carriers. These carriers—American Airlines, Delta Air Lines, Continental Airlines and United Parcel Service—are permitted by a Memorandum of Understanding signed in 1985 to provide service from specific cities in the United States to specific Japanese cities. MOU carriers cannot use Japan as a base of operation to directly serve emerging Asian markets beyond Japan. They can, however, participate in those markets through code-sharing alliances with Japanese carriers. In fact, Delta's recently announced alliance with All Nippon Airways will permit it to do precisely that.

The second group of carriers, whose rights are derived from the United States-Japan bilateral agreement signed in 1952, are permitted to fly to Japan, take on and unload passengers and/or cargo, and to fly on to cities throughout Asia. Unlike the MOU carriers, the so-called 1952 carriers—Northwest Airlines, United Airlines and Federal Express Corp.—have beyond rights. Northwest was a party to the 1952 agreement. In 1985, United Airlines purchased its beyond rights from Pan Am in a $750 million transaction and Federal Express acquired the beyond rights of Tiger International, Inc. in a 1989 transaction valued at more than $1 billion.

In a recent speech, Bob Crandall, the Chairman of American Airlines, set out a possible negotiating strategy for United States-Japan aviation relations. I anticipate other MOU carriers will embrace the strategy Mr. Crandall advocated and I therefore refer to it as the "MOU carrier approach."

Recognizing the Japanese are unlikely to grant beyond rights to MOU carriers, Mr. Crandall urged our negotiators to focus on increasing transpacific opportunities between the United States and Japan. In addition to

list of business organizations that are subject to the payment limitations.

Under current law, general partnerships and joint ventures are not listed under the definition of legal "persons" and are thus exempt from the payment limitations. This exemption gives farming operations a heavy incentive to structure their businesses under the aegis of a general partnership: the more "entities" included in the partnership, the more payments the operation can receive.

SECTION 4

This section would repeal the most flagrantly-abused provision in the payment limit laws: the "Three-Entity Rule."

This rule was passed by Congress in 1987 purportedly to limit the number of sources from which a farmer could receive payments. In reality, though, it has mostly been an invitation for farmers to structure their operations in such a way as to maximize payments.

This section would allow farmers to receive payments from any number of sources. But because of the strict $35,000 limit we establish, and the direct attribution system, there will be few remaining incentives for farmers to form multiple corporations and "shell" entities that exist only on paper.

SECTION 5

For any payment limitation reforms to work, the loopholes in the rules defining who is "actively engaged in farming" need to be tightened. Otherwise, significant dollars will continue to flow to off-farm investors, and big operations will continue to flout the payment limits.

This section contains several sensible changes in the eligibility rules. Among others, it would:

Require any individual or majority shareholder(s) in a corporation to make a significant contribution of "active personal management" and "active personal labor." Current rules require only one or the other.

Require minority shareholders to contribute at least "active management" or "active labor" on the farm. Current rules allow too many passive stockholders to receive payments just by making a contribution of capital, land or equipment, i.e., money. If a minority shareholder does not meet this threshold, the corporation's payments will be reduced in proportion to that shareholders stake in the venture.

Redefine "active personal management" to demand a regular and consistent presence on the farm during the growing season, to guarantee that payees are closely involved in the day-to-day operations of the farming venture. The current definition is exceedingly vague, requiring only that the contribution be "critical to the farm's profitability."

Toughen the requirements on landowners. Under current law, landowners are essentially exempt from the labor and management contribution requirements, as long as they are engaged in a true share-lease arrangement with a tenant. This provision would require that the tenant actually be "actively engaged" for the landowner to qualify for payments.

Lastly, this section would expressly prohibit individuals or shareholders from using their subsidy payments to account for their required capital contribution. Under current rules, farmers can apply their advanced deficiency payments toward their capital contribution, which undercuts the legal requirement that a recipient be at risk.

SECTION 6

This section would increase the penalties for engaging in a "scheme or device"—creating bogus corporations, etc.—and defrauding the government.

Under current law, any individual or entity found by the USDA to be engaged in a scheme or device is prohibited from receiving payments for the rest of that crop year as well as the next crop year. This provision would ban payments for the succeeding five crop years. In addition, any individual or entity participating in commodity programs that is convicted of defrauding the government would be banned from receiving payments for the next 10 years. (There is currently no additional punishment for persons convicted of fraud.)

These steps are designed to create a real deterrent against attempts to milk the system and deceive the government. The existing penalties are clearly not having any impact.

SECTION 7

This section would establish the effective date of these changes as October 1, 1996.●

ADDITIONAL COSPONSORS

S. 545

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 545, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1136

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1136, a bill to control and prevent commercial counterfeiting, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1326

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1326, a bill respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

S. 1360

At the request of Mr. BENNETT, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health-care-related information, and for other purposes.

AMENDMENT NO. 2942

At the request of Mr. BYRD, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Nevada [Mr. REID], the Senator from Arkansas [Mr. PRYOR], the Senator from Arkansas [Mr. BUMPERS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mrs. MURRAY], the Senator from Montana [Mr. BAUCUS], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Mr. SARBANES], the Senator from Maryland (Ms. MIKULSKI], the Senator from Connecticut [Mr. DODD], the Senator from Wisconsin [Mr. KOHL], the Senator from Kentucky [Mr. FORD], the Senator from North Dakota [Mr. CONRAD], the Senator from Georgia [Mr. NUNN], and the Senator from California [Mrs. BOXER] were added as cosponsors of Amendment No. 2942 proposed to S. 1357, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

AMENDMENT NO. 2974

At the request of Mr. BYRD, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Illinois [Mr. SIMON], the Senator from North Dakota [Mr. DORGAN], the Senator from Virginia [Mr. ROBB], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Amendment No. 2974 proposed to S. 1357, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

SENATE RESOLUTION 188—NATIONAL DRUG AWARENESS DAY

Mr GRASSLEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 188

Whereas illegal drug use among the youth of America is on the increase;

Whereas illegal drug use is a major health problem, ruining thousands of lives and costing billions of dollars;

Whereas illegal drug use contributes to crime on the streets and in the homes of this nation;

Whereas national attention has turned from illegal drug use to other issues, and support for sustained programs has decreased;

Whereas public awareness and sustained programs are essential to combat an on-gong social problem;

Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free and to encourage personal responsibility;

Whereas the annual Red Ribbon Celebration, coordinated by the National Family Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and community awareness efforts contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drugs use: Now, therefore, be it

Resolved, That the Senate designate October 30, 1995, as "National Drug Awareness Day".

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

SPECTER AMENDMENT NO. 2985

Mr. SPECTER proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 539, line 16, strike all that follows through page 541, line 9.

SPECTER AMENDMENT NO. 2986

Mr. SPECTER proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate and limited deductions for home mortgage interest and charitable contributions.

GRASSLEY AMENDMENT NO. 2987

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

Before ": and" at the end of sec. 2111 (a)(1)(D), insert the following: "; however, the payment of burial and/or funeral expenses of the individual shall be subject to 42 U.S.C. §§1382b(a)(2)(B) and 1382b(d)".

BAUCUS (AND OTHERS) AMENDMENT NO. 2988

Mr. BAUCUS (for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. BIDEN, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1357, supra, as follows:

On page 272, strike line 21 and all that follows through page 293, line 22.

On page 161, strike line 3 and all that follows through page 178, line 7.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2989

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of title XII, add the following new subtitle:

Subtitle K—Enhanced Enterprise Zones

SEC. 12971. SHORT TITLE.

This subtitle may be cited as the "Enhanced Enterprise Zones Act of 1995".

SEC. 12972. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness.

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers.

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment.

(4) The provisions creating empowerment zones that were enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation, job creation, educational opportunities, and homeownership in designated enterprise communities and empowerment zones.

(b) PURPOSE.—The purpose of this subtitle is to increase job creation, small business expansion and formation, educational opportunities, and homeownership in economically depressed areas by providing Federal tax incentives, regulatory reforms, school reform pilot projects, and homeownership incentives.

CHAPTER 1—FEDERAL TAX INCENTIVES

SEC. 12973. AMENDMENTS TO SUBCHAPTER U.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas) is amended—

(1) by redesignating part IV as part V,

(2) by redesignating section 1397D as section 1397F, and

(3) by inserting after part III the following new part:

"PART IV—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1397D. Empowerment zone and enterprise community capital gain.

"Sec. 1397E. Empowerment zone and enterprise community stock.

"SEC. 1397D. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(b) QUALIFIED ZONE ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) any qualified zone stock,

"(B) any qualified zone business property, and

"(C) any qualified zone partnership interest.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397E ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397E.

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified zone business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone or enterprise community took effect,

"(ii) the original use of such property in the empowerment zone or enterprise community commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in an enterprise zone business of the taxpayer.

"(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—

"(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

"(I) property which is substantially improved by the taxpayer, and

"(II) any land on which such property is located.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone or enterprise community took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

"(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or

"(II) $5,000.

"(C) LIMITATION ON LAND.—The term 'qualified zone business property' shall not include land which is not an integral part of an enterprise zone business.

"(4) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(5) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of all prior holders.

"(6) 10-YEAR SAFE HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(2) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(3) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE DESIGNATION NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as an empowerment zone or enterprise community.

"(4) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

"(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' has the meaning given such term by section 1394(b)(3), except that, in applying section 1394(b)(3), the term 'qualified business' shall not include any trade or business of producing property of a character subject to the allowance for depletion under section 611.

"(d) TREATMENT OF PASS-THRU ENTITIES.—

"(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(C) shall apply for purposes of the preceding sentence.

"(2) INCOME INCLUSIONS.—

"(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

"(i) such amount is attributable to qualified capital gain recognized on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

"(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397B(b) except that references to empowerment zones shall be treated as including references to enterprise communities), and

"(2) gain attributable to periods before the designation of an area as an empowerment zone or enterprise community.

"(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such asset in the same manner as the transferor, and

"(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"SEC. 1397E. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed—

"(i) $100,000 for any taxable year, and

"(ii) when added to the aggregate amount allowed as a deduction under this section in all prior years, $500,000.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under—

"(i) subparagraph (A)(i), the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) subparagraph (A), the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(2) RELATED PERSON.—The taxpayer and members of the taxpayer's family shall be treated as one person for purposes of paragraph (1) and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock. For purposes of this paragraph, an individual's family includes only such individual's spouse and minor children.

"(3) PARTIAL TAXABLE YEAR.—If designation of an area as an empowerment zone or enterprise community occurs, expires, or is revoked pursuant to section 1391 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—Such term shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified enterprise zone property.

"(B) QUALIFIED ENTERPRISE ZONE PROPERTY.—For purposes of this section, the term 'qualified enterprise zone property' means property to which section 168 applies (or would apply but for section 179)—

"(i) the original use of which commences in an empowerment zone or enterprise community with the issuer, and

"(ii) substantially all of the use of which is in such empowerment zone or enterprise community.

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

"(1) such corporation is a corporation described in section 1397B(b) (except that in applying such section the references to empowerment zones shall be treated as including references to enterprise communities) or, in the case of a new corporation, such corporation is being organized for purposes of being such a corporation,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $50,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of such disposition by the taxpayer, and

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a designation as an empowerment zone or enterprise community, as the case may be.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section."

(b) ADDITIONAL EXPENSING.—Section 1397A (relating to increase in expensing under section 179) is amended—

(1) in subparagraph (A) of subsection (a)(1), by striking "$20,000" and inserting "$35,000", and

(2) by adding at the end the following new subsection:

"(c) ENTERPRISE ZONE BUSINESS.—For purposes of this section, the term 'enterprise zone business' has the meaning given such term by section 1397B, except that in applying such section references to empowerment zones shall be treated as including references to enterprise communities."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end the following new paragraph:

"(26) to the extent provided in section 1397E(b), in the case of stock with respect to which a deduction was allowed or allowable under section 1397E(a)."

(d) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter U is amended by striking the item relating to part IV and inserting the following new items:

"Part IV. Additional incentives for empowerment zones and enterprise communities.

"Part V. Regulations."

(2) The table of sections for part V of subchapter U of chapter 1, as redesignated by subsection (a)(1), is amended by redesignating the item relating to section 1397D as section 1397F.

(3) Section 1397F, as so redesignated, is amended by striking "and III" each place it appears and inserting ", III, and IV".

(e) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1995.

SEC. 12974. COMMERCIAL REVITALIZATION TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the commercial revitalization credit."

(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, except as provided in subsection (e), the commercial revitalization credit for any taxable year is an amount equal to the applicable percentage of the qualified revitalization expenditures with respect to any qualified revitalization building.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means—

"(A) 20 percent, or

"(B) at the election of the taxpayer, 5 percent for each taxable year in the credit period.

The election under subparagraph (B), once made, shall be irrevocable.

"(2) CREDIT PERIOD.—

"(A) IN GENERAL.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service.

"(B) APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) and (4) of section 42(f) shall apply.

"(c) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES.—For purposes of this section—

"(1) QUALIFIED REVITALIZATION BUILDING.—The term 'qualified revitalization building' means any building (and its structural components) if—

"(A) such building is located in an eligible commercial revitalization area,

"(B) a commercial revitalization credit amount is allocated to the building under subsection (e), and

"(C) depreciation (or amortization in lieu of depreciation) is allowable with respect to the building.

"(2) QUALIFIED REHABILITATION EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property, or

"(II) an addition or improvement to property described in subclause (I),

"(ii) in connection with the construction or substantial rehabilitation or reconstruction of a qualified revitalization building, and

"(iii) for the acquisition of land in connection with the qualified revitalization building.

"(B) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building for any taxable year shall not exceed $10,000,000, reduced by any such expenditures with respect to the building taken into account by the taxpayer or any predecessor in determining the amount of the credit under this section for all preceding taxable years.

"(C) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified revitalization expenditure' does not include—

"(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure (other than with respect to land acquisitions) with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

"(ii) ACQUISITION COSTS.—The costs of acquiring any building or interest therein and any land in connection with such building to the extent that such costs exceed 30 percent of the qualified revitalization expenditures determined without regard to this clause.

"(iii) OTHER CREDITS.—Any expenditure which the taxpayer may take into account in computing any other credit allowable under this part unless the taxpayer elects to take the expenditure into account only for purposes of this section.

"(3) ELIGIBLE COMMERCIAL REVITALIZATION AREA.—The term 'eligible commercial revitalization area' means an empowerment zone or enterprise community designated under subchapter U.

"(4) SUBSTANTIAL REHABILITATION OR RECONSTRUCTION.—For purposes of this subsection, a rehabilitation or reconstruction shall be treated as a substantial rehabilitation or reconstruction only if the qualified revitalization expenditures in connection with the rehabilitation or reconstruction exceed 25 percent of the fair market value of the building (and its structural components) immediately before the rehabilitation or reconstruction.

"(d) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—Qualified revitalization expenditures with respect to any qualified revitalization building shall be taken into account for the taxable year in which the qualified rehabilitated building is placed in service. For purposes of the preceding sentence, a substantial rehabilitation or reconstruction of a building shall be treated as a separate building.

"(2) PROGRESS EXPENDITURE PAYMENTS.—Rules similar to the rules of subsections (b)(2) and (d) of section 47 shall apply for purposes of this section.

"(e) LIMITATION ON AGGREGATE CREDITS ALLOWABLE WITH RESPECT TO BUILDINGS LOCATED IN A STATE.—

"(1) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the commercial revitalization credit amount (in the case of an amount determined under subsection (b)(1)(B), the present value of such amount as determined under the rules of section 42(b)(2)(C)) allocated to such building under this subsection by the commercial revitalization credit agency. Such allocation shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

"(2) COMMERCIAL REVITALIZATION CREDIT AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate commercial revitalization credit amount which a commercial revitalization credit agency may allocate for any calendar year is the amount of the State commercial revitalization credit ceiling determined under this paragraph for such calendar year for such agency.

"(B) STATE COMMERCIAL REVITALIZATION CREDIT CEILING.—

"(i) IN GENERAL.—The State commercial revitalization credit ceiling applicable to any State for any calendar year is $2,000,000 for each empowerment zone and enterprise community in the State designated under subchapter U.

"(ii) SPECIAL RULE WHERE ZONE OR COMMUNITY LOCATED IN MORE THAN 1 STATE.—If an empowerment zone or enterprise community is located in more than 1 State, a State's share of the amount specified in clause (i) with respect to such zone or community shall be an amount that bears the same ratio to $2,000,000 as the population in the State bears to the population in all States in which such zone or community is located.

"(iii) OTHER SPECIAL RULES.—Rules similar to the rules of subparagraphs (D), (E), (F), and (G) of section 42(h)(3) shall apply for purposes of this subsection.

"(C) COMMERCIAL REVITALIZATION CREDIT AGENCY.—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

"(f) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION.—Notwithstanding any other provision of this section, the commercial revitalization credit dollar amount with respect to any building shall be zero unless—

"(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

"(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

"(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

"(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization credit agency which are appropriate to local conditions,

"(B) which considers—

"(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for an eligible commercial revitalization area through a citizen participation process,

"(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

"(iii) the active involvement of residents and nonprofit groups within the eligible commercial revitalization area, and

"(C) which provides a procedure that the agency (or its agent) will follow in monitoring for compliance with this section.

"(g) TERMINATION.—This section shall not apply to any building placed in service after December 31, 2000."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 48A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to any commercial revitalization credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A."

(2) Subparagraph (B) of section 48(a)(2) is amended by inserting "or commercial revitalization" after "rehabilitation" each place it appears in the text and heading thereof.

(3) Subparagraph (C) of section 49(a)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the basis of any qualified revitalization building attributable to qualified revitalization expenditures."

(4) Paragraph (2) of section 50(a) is amended by inserting "or 48A(d)(2)" after "section 47(d)" each place it appears.

(5) Subparagraph (B) of section 50(a)(2) is amended by adding at the end the following new sentence: "A similar rule shall apply for purposes of section 48A."

(6) Paragraph (2) of section 50(b) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified revitalization building to the extent of the portion of the basis which is attributable to qualified revitalization expenditures."

(7) Subparagraph (C) of section 50(b)(4) is amended by inserting "or commercial revitalization" after "rehabilitated" each place it appears in the text or heading thereof.

(8) Subparagraph (C) of section 469(i)(3) is amended—

(A) by inserting "or section 48A" after "section 42"; and

(B) by striking "CREDIT" in the heading and inserting "AND COMMERCIAL REVITALIZATION CREDITS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1995.

CHAPTER 2—REGULATORY FLEXIBILITY

SEC. 12975. DEFINITION OF SMALL ENTITIES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES FOR ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5); and

(2) by striking paragraph (6) and inserting the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section; and

"(B)(i) any enterprise zone business (as defined by section 1394(b)(3) of the Internal Revenue Code of 1986);

"(ii) any unit of government that nominated an area which the appropriate Secretary designates as an empowerment zone

or enterprise community (within the meaning of section 1391 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone or community; and

"(iii) any not-for-profit enterprise carrying out a significant portion of its activities within such a zone or community.

For purposes of subparagraph (B)(ii), the term 'appropriate Secretary' has the meaning given such term by section 1393(a)(1) of the Internal Revenue Code of 1986."

SEC. 12976. WAIVER OR MODIFICATION OF AGENCY RULES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding after section 612 the following new section:

"§613. Waiver or modification of agency rules in empowerment zones and enterprise communities

"(a) Upon the written request of any government which nominated an area that the appropriate Secretary has designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone or community, to waive or modify all or part of any rule which such agency has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone or community.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the empowerment zone or enterprise community. If such a request is made to any agency other than the Department of Housing and Urban Development or the Department of Agriculture, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development or to the Secretary of Agriculture, whichever is appropriate, at the time the request is made.

"(d) Any petition for a modification or waiver shall—

"(i) identify the requirements for which the modification or waiver is sought;

"(ii) identify the existing or proposed business or type of business to which the modification or waiver would pertain;

"(iii) demonstrate that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve;

"(iv) demonstrate the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the empowerment zone or enterprise community against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change; and

"(v) demonstrate that the waiver or modification is necessary because the existing rule impedes the implementation of an existing or proposed business or type of business that furthers job creation, community development, or economic revitalization.

"(e) The agency may approve, in its discretion, a petition upon determining that the petition meets the above-stated criteria. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety or of environmental pollution.

"(f) A modified rule shall be enforceable as if it were the issuance of an amendment to the rule being modified or waived.

"(g) If a request is disapproved, the agency shall inform all the requesting governments, and the appropriate Secretary (as defined in section 1393(a)(1) of the Internal Revenue Code of 1986), in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(h) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petitions, the agency shall provide public notice and opportunity to comment. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of the applicability of such waiver or modification, consistent with the Administrative Procedure Act requirements.

"(i) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(j) No waiver or modification of a rule under this section shall remain in effect with respect to an empowerment zone or enterprise community after the zone or community designation has expired or has been revoked.

"(k) For purposes of this section, the term 'rule' means—

"(1) any rule as defined in section 551(4) of this title, or

"(2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) CLERICAL AMENDMENT.—The analysis for chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 612, the following new item:

"613. Waiver or modification of agency rules in empowerment zones and enterprise communities."

(c) CONFORMING AMENDMENTS.—

(1) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 613)" before "means".

(2) Section 612 of such title 5 is amended—

(A) in subsection (a), by inserting "(except section 613)" after "chapter"; and

(B) in subsection (b), by inserting "as defined in section 601(2)" before the period at the end of the first sentence.

CHAPTER 3—RESIDENT MANAGEMENT AND HOMEOWNERSHIP INCENTIVES

SEC. 12977. ENTERPRISE ZONE OPPORTUNITY GRANTS.

(a) IN GENERAL.—Section 186 of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a) is amended by striking the section designation and the section heading and inserting the following:

"SEC. 186. ENTERPRISE ZONE GRANTS."

(b) STATEMENT OF PURPOSE.—Section 186(a) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3)—

(A) by striking "federally approved and equivalent State-approved"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to encourage the development of resident management corporations and resident councils in enterprise zones."

(c) DEFINITIONS.—Section 186(b) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(b)) is amended by adding at the end the following new paragraphs:

"(7) ENTERPRISE ZONE.—The term 'enterprise zone' means an area designated as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986.

"(8) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' has the same meaning as in section 24(h) of the United States Housing Act of 1937."

(d) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—Section 186(c)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(c)(1)) is amended to read as follows:

"(1) IN GENERAL.—In carrying out this section, the Secretary may make grants to nonprofit organizations—

"(A) to carry out enterprise zone homeownership opportunity programs to promote homeownership in enterprise zones in accordance with this section; and

"(B) to promote the development of resident management corporations in enterprise zones."

(e) ELIGIBLE USES OF ASSISTANCE.—Section 186(d) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(d)) is amended—

(1) in paragraph (1)—

(A) by striking "assistance to provide" and inserting the following: "assistance to—

"(A) provide";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) to promote the development of resident management corporations in enterprise zones."; and

(2) in paragraph (2), by striking "under this subsection" and inserting "under paragraph (1)(A)".

(f) PROGRAM REQUIREMENTS.—Section 186(e) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(e)) is amended—

(1) in paragraph (2), by striking "under this section" and inserting "under subsection (d)(1)(A)"; and

(2) in paragraph (3), by striking "federally approved or State-approved".

(g) TERMS AND CONDITIONS OF ASSISTANCE.—Section 186(f)(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(f)(2)) is amended by striking "under this section" and inserting "under subsection (c)(1)(A)".

(h) PROGRAM SELECTION CRITERIA.—Section 186(g)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(g)(1))

is amended by striking "under this section" and inserting "under subsection (d)(1)(A)".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 186(i) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(i)) is amended to read as follows:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $100,000,000 for fiscal year 1997; and

"(2) such sums as may be necessary for each of fiscal years 1998, 1999, and 2000."

CHAPTER 4—MODIFICATION OF CPI CALCULATION

SEC. 12978. MODIFICATION OF CPI CALCULATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to calculations made after December 31, 1995, the Bureau of Labor Statistics of the Department of Labor shall reduce the annual percentage change in the Consumer Price Indexes, as determined without regard to this section, by .05 percentage point.

(b) EXCEPTION.—The reduction described in subsection (a) shall not apply for purposes of calculating the cost-of-living increases under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.).

SIMON (AND OTHERS) AMENDMENT NO. 2990

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. Stevens, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

BAUCUS AMENDMENT NO. 2991

Mr. BAUCUS proposed an amendment to the bill S. 1357, supra as follows:

On page 1469, strike lines 8 through 11, and insert the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

"Taxable year:	Applicable Amount:
1996	$400
1997	450
1998 and thereafter	500.

On page 1470, line 7, strike "$110,000" and insert "$90,000".

On page 1470, line 9, strike "$75,000" and insert "$55,000".

On page 1470, line 11, strike "$55,000" and insert "$45,000".

On page 1472, strike the table between lines 10 and 11, and insert the following:

"For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,700
1997	7,050
1998	7,400
1999	7,850
2000	8,100
2001	8,500
2002	9,000
2003	9,400

"For taxable years beginning in calendar year—	The applicable dollar amount is—
2004	9,850
2005 and thereafter	10,800."

On page 1530, strike lines 2 through 5, and insert the following:

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the first $100,000 of such gain shall be a deduction from gross income.

On page 1547, beginning on line 20, strike all through page 1550, line 12.

On page 1551, beginning on line 4, strike all through page 1553, line 10.

On page 1867, after line 20, insert the following:

SEC. 12879. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

There is hereby authorized to be appropriated and is appropriated for each fiscal year an amount equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendments made by amendment no. ———, offered on October ——, 1995, with respect to the Balanced Budget Reconciliation Act of 1995 to be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts which bear the same ratio as the balances in each Trust Fund.

REID (AND OTHERS) AMENDMENT NO. 2992

Mr. EXON (for Mr. REID for himself, Mr. BRYAN, Mr. BUMPERS, and Mr. CRAIG) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of subchapter E of chapter 1 of subtitle J of title XII, insert the following new section:

SEC. . LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

§114. Limitation on State income taxation of certain pension income

"(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b) For purposes of this section—

"(1) The term 'retirement income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code);

"(H) a trust described in section 501(c)(18) of such Code; or

"(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

"(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

D'AMATO AMENDMENT NO. 2993

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

On page 183, between lines 17 and 18, insert the following:

(C) EXEMPTION FOR CERTAIN NEWLY CHARTERED INSTITUTIONS.—

(i) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under subparagraph (A), the Board of Directors shall, by order, exempt any insured depository institution from payment of the special assessment if the institution was in existence on October 1, 1995, and held no Savings Association Insurance Fund insured deposits prior to January 1, 1993.

(ii) DEFINITION.—For purposes of this subparagraph, an institution shall be deemed to have held Savings Association Insurance Fund insured deposits prior to January 1, 1993, if it directly held Savings Association Insurance Fund insured deposits prior to that date, or it succeeded to, acquired, purchased, or otherwise holds any Savings Association Insurance Fund insured deposits as of the date of enactment of this Act that were Savings Association Insurance Fund insured prior to January 1, 1993.

On page 183, line 18, strike "(C)" and insert "(D)".

On page 199, line 9, insert "and subsection (e)" after "subsection".

On page 199, between lines 11 and 12, insert the following:

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(2) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(4) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(5) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(6) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(7) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f-14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(8) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund.";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) in paragraph (2)(D) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(v) by striking paragraph (2)(E) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act);

(vi) in paragraph (2)(F) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B)."; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 7(d) (12 U.S.C. 1817(d)) (as added by section 3001(c)(1) of this Act)—

(i) in the subsection heading, by striking "BANK" and inserting "DEPOSIT"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(I) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(J) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(K) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(L) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(M) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(O) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(P) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(Q) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(R) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(S) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(T) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(V) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(W) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(X) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Z) by striking section 31 (12 U.S.C. 1831h);

(AA) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(BB) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(CC) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(DD) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(9) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101-73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(10) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(11) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

On page 199, line 12, strike "(e)" and insert "(f)".

HUTCHISON (AND OTHERS) AMENDMENT NO. 2994

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicted persons found in their territories.

(8) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

HEFLIN (AND SHELBY) AMENDMENT NO. 2995

Mr. DOMENICI (for Mr. HEFLIN, for himself, and Mr. SHELBY) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1773, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

KENNEDY AMENDMENT NO. 2996

Mr. KENNEDY proposed an amendment to the bill S. 1357, supra, as follows:

On page 469, between lines 8 and 9, insert the following:

"(g) PROHIBITION OF BALANCE BILLING.—Notwithstanding any other provision of law an individual who is enrolled in a medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance and deductibles required by such plan in accordance with subsection (c)

D'AMATO (AND OTHERS) AMENDMENT NO. 2997

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. GRAMS, and Mr. SHELBY) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert:

SEC.—. SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

FAIRCLOTH AMENDMENT NO. 2998

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

On page 187, line 3:
On page 187, line 22:
Strike "5" and insert "10."

FEINGOLD (AND OTHERS) AMENDMENT NO. 2999

Mr. FEINGOLD (for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, Mr. KOHN, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

On page 33, strike lines 21 through 24.

FEINGOLD (AND WELLSTONE) AMENDMENT NO. 3000

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead," and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

FEINGOLD AMENDMENT NO. 3001

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals with Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995".

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) Allocation.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY: AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

((B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provided for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(1) 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.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or curing with one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due

to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIRMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance of Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the Medicare program.

(g) PAYMENT FOR SERVICES.—IN ORDER TO PAY FOR COVERED SERVICES, A STATE PLAN MAY PROVIDE FOR THE USE OF—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term "official poverty level applicable to a family of the size involved" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COININSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less that 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325

percent. of such official poverty line (as so applied):

(E) of $500 for such individuals with income not less than 325 percent. and less than 400 percent. of such official poverty line (as so applied): and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representatives payees) of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS: ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term "Federal home and community-based services matching percentage" means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000, $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATIONS.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection

(a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

KOHL AMENDMENT NO. 3002

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN: ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "contracts".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident'

has the meaning given to such term by section 894(c)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

DOLE (AND OTHERS) AMENDMENT NO. 3003

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. KOHL, Mr. GRASSLEY, and Mr. ROTH) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of study which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

COCHRAN (AND OTHERS) AMENDMENTS NO. 3004

Mr. COCHRAN (for himself, Mr. JEFFORDS, Mr. GORTON, Mr. LEAHY, Mr. COHEN, and Mr. SNOWE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 33, after line 24, insert the following:

(c) CLASS IV ACCOUNT.—Effective January 1, 1996, section 8c(5), of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following: "Each marketing order issued pursuant to this section for milk and milk products shall include all skim milk and butterfat used to produce butter, nonfat dry milk, and dry whole milk as part of a Class IV classification."; and

(2) by adding at the end the following:

"(M) CLASS IV ACCOUNT.—

"(i) DEFINITIONS.—In this paragraph:

"(I) ACCOUNT.—The term 'Account' means the Account for Class IV final products established under clause (ii).

"(II) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Account appointed under clause (vii).

"(III) CLASS IV FINAL PRODUCT.—The term 'Class IV final product' means butter, nonfat dry milk, and dry whole milk.

"(IV) MILK MARKETING ORDER.—The term 'milk marketing order' means a milk marketing order issued pursuant to this section and any comparable State milk marketing order or system.

"(ii) ESTABLISHMENT OF ACCOUNT.—Notwithstanding any other provision of law, the Secretary shall establish an Account for Class IV final products to equalize returns from all milk used in the 48 contiguous States to produce Class IV final products among all milk marketed by producers for commercial use.

"(iii) CLASS IV PRICE AND DIFFERENTIAL; PRORATION.—

"(I) PRICE.—The Secretary shall determine a milk equivalent value per hundredweight for Class IV final products each month based on the average wholesale market prices during the month for Class IV final products. The milk equivalent value at 3.67 percent milkfat shall be the per hundredweight Class IV price under the Account.

"(II) DIFFERENTIAL.—The Administrator of the Account shall announce, on the first business day of each month, the per hundredweight Class IV differential applicable to the preceding month. The monthly Class IV differential shall be the amount, if any, by which the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) exceeds the Class IV price established pursuant to subclause (I).

"(III) PRORATION.—On or before the twentieth day after the end of each month, the Administrator of the Account shall—

"(aa) determine the quantity of milk produced in the 48 contiguous States of the United States and marketed for commercial use in producing Class IV final products during the preceding month;

"(bb) calculate the quantity equal to the number of hundredweights of milk used for Class IV final products during the preceding month (as determined under item (aa)) multiplied by the Class IV differential for the month established under subclause (II), and add to that amount the cost of administering the Account during the current month; and

"(cc) prorate the amount established under item (bb) among the total amount, in hundredweights, of milk produced in the 48 contiguous States and marketed for commercial use during the preceding month.

"(iv) ACCOUNT OBLIGATIONS.—On or before the twenty-fifth day after the end of each month:

"(I) Each person making payment to a producer for milk produced in any of the 48 contiguous States of the United States and marketed for commercial use shall collect from each producer the amount determined by multiplying the quantity of milk handled for the account of the producer during the preceding month by the Class IV differential proration established pursuant to clause (iii)(III)(ccc). The amount shall be remitted to the Administrator of the Account.

"(II) Any producer marketing milk of the producer's own production in the form of milk or dairy products to consumers, either directly or through retail or wholesale outlets, shall remit to the Administrator of the Account the amount determined by multiplying the quantity of the milk marketed by the producer by the Class IV differential proration established under clause (iii)(III)(ccc).

"(v) DISTRIBUTION OF ACCOUNT PROCEEDS.—On or before the thirtieth day after the end of each month, the Administrator of the Account shall pay to each person that used skim milk and butterfat to produce Class IV final products during the preceding month a proportionate share of the total Account proceeds for the month. The proportion of the total proceeds payable to each person shall be the same proportion that the skim milk and butterfat used by the person to produce Class IV final products during the preceding month is of the total skim milk and butterfat used by all persons during the preceding month to produce Class IV final products.

"(vi) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order shall be adjusted to account for revenue distributions required under clauses (iv) and (v).

"(vii) ADMINISTRATION OF CLASS IV ACCOUNT.—The Secretary shall appoint a person to serve as the Administrator of the Account and shall delegate to the Administrator such powers as are needed to carry out the duties of Administrator.

"(viii) ENFORCEMENT.—

"(I) COLLECTION.—The amounts specified in clause (iv) shall be collected and remitted to the Administrator in the manner prescribed by the Secretary.

"(II) PENALTIES.—If any person fails to remit the amounts required under clause (iv) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subparagraph, the person shall be liable to the Secretary for a civil penalty up to, as determined by the Secretary, an amount determined by multiplying—

"(i) the quantity of milk involved in the violation; by

"(ii) the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) for the applicable calendar year.

"(III) ENFORCEMENT.—The Secretary may enforce this clause in the courts of the United States.

"(ix) RECULATIONS.—The Secretary shall issue regulations to establish the Account without regard to the notice and comment requirements of section 553 of title 5, United States Code.".

(d) NORTHEAST INTERSTATE DAIRY COMPACT.—Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from projected fluid milk production for the fiscal year within the Compact region in excess of the national average rate of purchases of milk and milk products by the Corporation.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the compact Commission, and be reimbursed for the assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C.608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) TERMINATION AND RENEWAL.—The consent for the Compact shall—

(A) terminate on the date that is 7 years after the date of enactment of this Act, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior ratification by the States' legislatures.

On page 33, after line 24, insert the following:

(c) AGRICULTURAL COMPETITIVENESS GRANTS.—

The Secretary of Agriculture (referred to in this subtitle as the "Secretary") shall, in accordance with this subtitle, award a grant to a grantee eligible under section 1502 to promote a purpose of this subtitle.

(d) ELIGIBLE GRANTEE.—

The Secretary may make a grant under section 1501 to—

(1) a college or university;

(2) a State agricultural experiment station;

(3) a State Cooperative Extension Service:
(4) a research institution or organization:
(5) a private organization or person; or
(6) a Federal agency.
(e) USE OF GRANT.—
A grant made under section 1501 may be used by a grantee for 1 or more of the following uses:
(1) Research, ranging from discovery to principles of application.
(2) Extension and related private-sector activities.
(3) Education.
(f) PRIORITY.—
In administering this subtitle, the Secretary shall—
(1) establish priorities for allocating grants, based on needs and opportunities of the food and agriculture system in the United States:
(2) seek and accept proposals for grants:
(3) determine the relevance and merit of proposals through a system of peer review; and
(4) award grants on the basis of merit and quality.
(g) ADMINISTRATION.—
(1) COMPETITIVE GRANT.—A grant under section 1501 shall be awarded on a competitive basis.
(2) TERMS.—A grant under section 1501 shall have a term that does not exceed 5 years.
(3) MATCHING FUNDS.—As a condition of receipt of a grant under section 1501, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—
(1) for applied research that is commodity-specific; and
(2) not of national scope.
(4) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available under section 1506 for administrative costs incurred by the Secretary in carrying out this subtitle.
(5) CONSTRUCTION COSTS.—None of the funds made available under section 1507 may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).
(h) REGULATIONS.—
The Secretary shall issue such regulations as are necessary to carry out this subtitle.
(i) USE OF COMMODITY CREDIT CORPORATION FUNDS.—
(1) IN GENERAL.—Subject to subsection (b), the Secretary shall use $30,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2002 to carry out this title.
(2) LIMITATION.—The Secretary may use less than $30,000,000 of the funds of the Commodity Credit Corporation for any fiscal year if the Secretary determines that the full funding level is not necessary to fund all qualifying applications for agricultural competitiveness grants that satisfy the priority criteria established under section 1504.
(3) POWERS OF THE CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) (as amended by section 1201(c)(1)) is amended by inserting after subsection (g) the following:
"(4) Carry out research, extension, and education related to agriculture by using not more than $30,000,000 of the funds of the Corporation in any fiscal year for any function or activity relating to agricultural research, extension, or education.".
(j) EFFECTIVE DATE.—
This subtitle and the amendment made by this subtitle shall become effective upon enactment.

CRAIG AMENDMENT NO. 3005

Mr. CRAIG proposed an amendment to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment;

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.
"(b) LIMITATIONS.—
"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.
"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—
"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."
(c) CONFORMING AMENDMENTS.—
(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:
"Sec. 24. Adoption expenses."
(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:
"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."
(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995."

Mr. President, I move to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

DOLE AMENDMENT NO. 3006

Mr. DOLE proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWNACE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.
"(b) LIMITATIONS.—
"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.
"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with record to paragraph (1)) as—
"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."
(c) CONFORMING AMENDMENTS.—
(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:
"Sec. 24. Adoption expenses."
(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:
"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."
(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

LAUTENBERG AMENDMENT NO. 3007

Mr. LAUTENBERG proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

Strike all after instructions and insert the following: "to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid."

NICKLES (AND OTHERS) AMENDMENT NO. 3008

Mr. NICKLES (for himself, Mr. DOLE, and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1332, beginning with line 5, strike all through page 1336, line 17.

MOYNIHAN AMENDMENT NO. 3009

Mr. MOYNIHAN proposed an amendment to the bill S. 1357, supra, as follows:

On page 541, strike line 10, and all that follows through page 542, line 8.

DOLE (AND OTHERS) AMENDMENT NO. 3010

Mr. DOMENICI (for Mr. DOLE for himself, Mr. KOHL, Mr. GRASSLEY, Mr. ROTH, Mr. BOND, Mr. ASHCROFT, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. President, the amendment that I am offering will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

D'AMATO AMENDMENT NO. 3011

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

GRASSLEY AMENDMENT NO. 3012

Mr. DOMENICI (for Mr. GRASSLEY) proposed an amendment to the bill S. 1357, supra, as follows:

On pages 764 and 765, section 2106, Medicaid Task Force, under subsection (c) "ADVISORY GROUP FOR THE TASK FORCE" add new number (14) to read:

"(14) AMERICAN OSTEOPATHIC ASSOCIATION".
Redesignate old (14) to be (15);
Redesignate old (15) to be (16);
Redesignate old (16) to be (17);
Redesignate old (17) to be new (18).

BOXER AMENDMENT NO. 3013

Mr. DOMENICI (for Mrs. BOXER) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) Retroactive Pay Prohibited—No pay forfeited in accordance with subsection (a) may be paid retroactively.

GRAHAM AMENDMENT NO. 3014

Mr. DOMENICI (for Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra, as follows:

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

HUTCHISON (AND OTHERS) AMENDMENT NO. 3015

Mr. DOMENICI (for Mrs. HUTCHISON for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS) proposed an amendment to the bill S. 1357, supra; as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soliders.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War 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 eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be

brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned about pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovena.

(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 Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

KOHL AMENDMENT NO. 3016

Mr. DOMENICI (for Mr. KOHL) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS,**" after "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor

stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

SIMPSON (AND ROBB) AMENDMENT NO. 3017

Mr. DOMENICI (for Mr. SIMPSON for himself and Mr. ROBB) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

WELLSTONE (AND CHAFEE) AMENDMENT NO. 3018

Mr. WELLSTONE (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

"The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3)."

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 3019

Mr. ROCKEFELLER (for himself, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of part B of title XXI of the Social Security Act, as added by section 7191, add the following new section:

"SEC. 2118. EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.

"(a) 12-MONTH EXTENSION.—

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title provide that each family which was receiving assistance pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such assistance, because of hours of, or income from, employment of the parent or caretaker relative (as defined in subsection (d)), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 12-month period in accordance with this subsection

"(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of assistance under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be modified or terminated and the reporting requirements under paragraph (5); and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3) MODIFICATION OR TERMINATION OF EXTENSION.—

"(A) MODIFICATION.—Subject to subparagraph (C), and, if the modification relates to the imposition of cost-sharing or premiums, subject to section 2113, the State may modify the terms of the extension of assistance during the 12-month period described in paragraph (1).

"(B) TERMINATION.—

"(i) NO DEPENDENT CHILD.—Subject to clause (ii) and subparagraph (C), extension of assistance during the 12-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child, whether or not the child is a needy child under part A of title IV.

"(ii) CONTINUTAION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of clause (i) but who may be eligible for assistance under the State plan because the child is described in section 2111(a)(2), the State may not discontinue such assistance under such clause until the State has determined that the child is not eligible for assistance under the plan.

"(C) NOTICE BEFORE MODIFICATION OR TERMINATION.—No modification or termination of assistance shall become effective under this paragraph until the State has provided the family with a 60-day notice of the grounds for the modification or termination, which notice shall include (in the case of termination) a description of how the family may reestablish eligibility for medical assistance under the State plan. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.

"(4) SCOPE OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), during the 12-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving assistance under the plan approved under part A of title IV.

"(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) non-acute care benefits.

"(C) STATE MEDICAID 'WRAP-AROUND' OPTION.—A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the parent or caretaker relative or by an employer of the absent parent of a needy child. In the case of such coverage offered by an employer of the parent or caretaker relative—

"(i) the State may require the parent or caretaker relative, as a condition of extension of coverage under this subsection for the parent or caretaker and the parent's or caretaker's family, to make application for such employer coverage, but only if—

"(I) the parent caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

"(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 2135).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

"(D) ALTERNATIVE ASSISTANCE.—At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

"(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option of the group health plan offered to the parent or caretaker relative.

"(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the parent or caretaker relative and needy children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) ENROLLMENT IN HMO, ETC.—Enrollment of the parent or caretaker relative and needy children in a capitated health care organization (as defined in section 2114(c)(1)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a capitated health care organization in accordance with section 2114.

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

"(5) REPORTING REQUIREMENTS.—Each State shall require (as a condition for extended assistance under this subsection) that a family receiving such extended assistance report to the State such eligibility verification as the State deems necessary. A State may permit such extended assistance under this subsection notwithstanding a failure to report under this paragraph if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.

"(b) APPLICABILITY IN STATES AND TERRITORIES.—

"(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.—The provisions of this section shall only apply to the 50 States and the District of Columbia.

"(c) GENERAL DISQUALIFICATION FOR FRAUD.—

"(1) INELIGIBILITY FOR ASSISTANCE.—This section shall not apply to an individual who is a member of a family which has received assistance under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such assistance before otherwise being provided extended eligibility under this section, the individual was ineligible for such assistance because of fraud.

"(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B.

"(d) CARETAKER RELATIVE DEFINED.—In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals With Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Community on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995".

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO CREATE A RIGHT TO SERVICES FOR INDIVIDUALS OR A REQUIREMENT THAT A STATE WITH AN APPROVED PLAN EXPEND THE ENTIRE AMOUNT OF FUNDS TO WHICH IT IS ENTITLED UNDER THIS SUBTITLE.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396d(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State Medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CASE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATE.—THE PLAN SHALL SPECIFY THE METHODS AND CRITERIA TO BE USED TO SET PAYMENT RATES FOR—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(A) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hand-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBLITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to he extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term "official poverty level applicable to a family of the size involved" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on State or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training program for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applications and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits in made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term "Federal home and community-based services matching percentage" means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and commuity-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000 $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle

for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

SEC. . It is the sense of the Senate that the Congress shall define a basic health benefit package for pregnant women, all children up to age 12 years, and individuals with disabilities living under 100% of federal poverty in order to ensure that these groups are entitled to a federal guarantee of health care services for a meaningful set of benefits.

HARKIN (AND OTHERS) AMENDMENT NO. 3020

Mr. HARKIN (for himself, Mr. DORGAN, Mr. WELLSTONE, Mr. DASCHLE, Mr. HEFLIN, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra, as follows:

(a) In Title I strike Subtitles A, B, and C and insert the following:

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SECTION 1001. SHORT TITLE.

This title may be cited as the "Farm Security Act of 1995".

Subtitle A—Commodity Programs

SEC. 1101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

"SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

"(b) ADJUSTMENT ACCOUNT.—

"(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

"(A) in the case of wheat, 7/10 of a bushel;

"(B) in the case of corn, a bushel; and

"(C) in the case of other feed grains, a quantity determined by the Secretary.

"(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

"(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

"(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

"(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

"(A) $4,500,000,000 for fiscal year 1996; and

"(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

"(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

"(5) TIER 1 SUPPORT.—

"(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

"(i) the payment quantity determined under subparagraph (B); by

"(ii) the payment factor determined under subparagraph (C).

"(B) PAYMENT QUANTITY.—

"(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

"(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

"(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

"(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

"(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

"(C) PAYMENT FACTOR.—

"(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of wheat; or

"(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

"(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of corn; or

"(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

"(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

"(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(6) ENVIRONMENTAL RESERVE PROGRAM.—

"(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

"(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

"(c) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

"(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

"(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

"(4) REPAYMENT.—

"(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

"(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing domestic market price for each covered commodity; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

"(d) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—

"(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

"(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

"(ii) the level at which a loan may be repaid under subsection (c)(4).

"(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

"(i) the date the producers lost beneficial interest in the crop; or

"(ii) the end of the marketing year for the crop.

"(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

"(e) PROGRAM COST LIMITATION.—

"(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

"(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

"(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

"(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

"(C) an acreage limitation program; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

"(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

"(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

"(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

"(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.".

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

"(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.".

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

"(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.".

SEC. 1102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "1997" and inserting "2002";

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (a)(5), by striking "1998" each place it appears and inserting "2002";

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002";

(5) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops"; and

(6) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1996 through 2002 crops".

SEC. 1103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2003"; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking "AND 1995" and inserting "THROUGH 2002"; and

(ii) by striking "and 1995" and inserting "through 2002"; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking "1997" each place it appears and inserting "2002"; and

(ii) in the heading of clause (v)(II), by striking "1997" and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1998 through 2002 crops".

SEC. 1104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(A) in the section heading, by striking "1997" and inserting "2002";

(B) in subsection (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(C) in subsection (g)—

(i) by striking "1997" in paragraphs (1) and (2)(A)(ii)(II) and inserting "2002"; and

(ii) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2002 crops".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsections (a)(1), (b), and (f), by striking "1997" each place it appears and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "1995" and inserting "2002"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(a)(2)) is amended—

(1) by striking "(2) SUPPORT RATES.—The" and inserting the following:

"(2) SUPPORT RATES.—

"(A) 1991-1995 CROPS.—The"; and

(2) by adding at the end the following:

"(B) 1996-2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.".

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358-1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

"(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota."; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking "undermarketings and"; and

(B) in paragraph (3), by striking "(including any applicable undermarketings)".

SEC. 1105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "1996" and inserting "2002";

(2) in subsections (a), (b), (f), (g), and (k), by striking "1996" each place it appears and inserting "2002";

(3) in subsection (h)(2)(C), by striking "and 1997" and inserting "through 2002".

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking "Subject to subparagraph (B), the" and inserting "The";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 1106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

"(2) MAJOR COUNTRY.—The term 'major country' includes—

"(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule:

"(B) a country of the European Union; and

"(C) the People's Republic of China.

"(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

"(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

"(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

"(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

"(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(e) ADJUSTMENT IN SUPPORT LEVEL.—

"(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

"(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

"(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

"(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(f) LOAN TYPE: PROCESSOR ASSURANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

"(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

"(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that

receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(h) LOAN TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

"(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(k) MARKETING ASSESSMENTS.—

"(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

"(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

"(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(4) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(l) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(m) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 1107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

"SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

"(a) LOSS.—

"(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

"(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

"(C) ADJUSTMENT FOR QUALITY.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

"(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

"(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

"(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

"(4) TERM OF LOAN.—

"(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

"(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

"(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

"(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

"(A) the loan level determined for the marketing year; or

"(B) the higher of—

"(i) the loan level determined for the marketing year multiplied by 70 percent; or

"(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

"(6) PREVAILING WORLD MARKET PRICE.—

"(A) IN GENERAL.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

"(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

"(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

"(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of wool export sales and wool export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

"(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

"(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the marketing year under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

"(A) the payment rate; by

"(B) the payment quantity of wool for the marketing year.

"(2) PAYMENT RATE.—

"(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

"(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

"(ii) the loan level determined for the marketing year.

"(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

"(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

"(d) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(j) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

"(k) LIMITATION ON OUTLAYS.—

"(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

"(A) $75,000,000, during any single marketing year; or

"(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

"(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

"(3) PERSON LIMITATION.—

"(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

"(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

"(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.".

SEC. 1108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1996" and inserting "2002".

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "oilseeds" and all that follows through "determine).".

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342-1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 1109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking "1997" each place it appears and inserting "2002"; and

(2) in subsection (b), by striking "1995" and inserting "2002";

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking "1995" and inserting "2002".

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking "1995" and inserting "2002".

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking "1995" and inserting "2002".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1997" each place it appears and inserting "2002";

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking "1997" each place it appears and inserting "2002"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears and inserting "2002".

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking "1995" each place it appears in subsections (a), (b)(1), and (c) and inserting "2002".

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101-624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "2002"; and

(2) in section 1154(b)(1)(A), by striking "1995" each place it appears and inserting "2002".

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 1110. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 1201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 100,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 2,500 swine; or

"(vi) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

"(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

"(c) COST-SHARING AND INCENTIVE PAYMENTS.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(d) TECHNICAL ASSISTANCE.—

"(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

"(1) $200,000,000 for fiscal year 1997; and

"(2) $250,000,000 for each of fiscal years 1998 through 2002.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

"SEC. 1238B. CONSERVATION PRIORITY AREAS.

"(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota,

South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

"(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

"(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

"(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

"(1) farming or ranching practices on the farm;

"(2) characteristics of natural resources on the farm;

"(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

"(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

"(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

(b) Strike sections 12161 and 12162.

WELLSTONE (AND LIEBERMAN) AMENDMENT NO. 3021

Mr. WELLSTONE (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 1357, supra as follows:

SEC. 1. PAYMENT LIMITATION.

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) LIMITATION.—

"(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446f) may not exceed $40,000.

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(b) CONFORMING AMENDMENTS.—

"(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(a)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

"(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

"(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103(B)(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'.

"(4) Section 1001C(a) of the Act (7 U.S.C. 1308-3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'."

SEC. 2. COMMODITY PROGRAMS.

(a) Strike section 1103(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';".

(b) Strike section 1104(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent';".

(c) Strike section 1105(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent';" and

(d) Strike section 1106(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent'.".

SEC. 3. CONSERVATION RESERVE PROGRAM.

Amend section 1201(a) by striking "(1) $1,787,000,000 for fiscal year 1996" and all that follows through "$974,000,000 for fiscal year 2002" and insert the following—

"(1) $1,802,000,000 for the fiscal year 1996;

"(2) $1,811,000,000 for the fiscal year 1997;

(3) "$1,476,000,000 for the fiscal year 1998;

(4) "$1,277,000,000 for the fiscal year 1999;

(5) "$1,131,000,000 for the fiscal year 2000;

(6) "$1,029,000,000 for the fiscal year 2001; and

(7) "$1,004,000,000 for the fiscal year 2002."

BROWN AMENDMENT NO. 3022

Mr. DOMENICI (for Mr. BROWN) proposed an amendment to the bill S. 1357, supra; as follows:

On page 13, strike line 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget,

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (related to the Acquisition and Maintenance of Buildings Abroad" account).

BRADLEY AMENDMENT NO. 3023

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5400 and 5401.

LEAHY AMENDMENT NO 3024

Mr. EXON (for Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 103, on line 6, strike "(D)" and insert "(E)".

On page 103, strike line 5 and insert the following:

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

On page 130, strike line 14 and insert the following:

"SEC. 1430. PROVIDING FUNDING FOR AMERICA SAMOA.

"Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96-597 during that fiscal year.'.".

SEC. 1431. EFFECTIVE DATE."

On page 152, line 7, strike "December 31, 1995" and insert "November 30, 1995".

On page 152, line 8, strike "January 1, 1996" and insert "December 1, 1995".

BUMPERS (AND OTHERS) AMENDMENT NO. 3025

Mr. BUMPERS (for himself, Mr. BRADLEY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike pages 360-382 and insert the following in lieu thereof: Property Act of 1944 (50 U.S.C. App. sec. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7 million per year, the remainder of the proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy shall draw down and sell 7 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility.

SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 to 6422) is amended by adding the following new section after section 167:

"SEC. 168. USE OF UNDERUTILIZED FACILITIES.

"(a) Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

"(b) Petroleum product stored under this section is not part of the Reserve and may be exported from the United States.".

"(c) Beginning in fiscal year 2001 and in each fiscal year thereafter, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".

Subtitle H—Mining

SEC. 5700. SHORT TITLE.

This subtitle may be cited as "The Mining Law Revenue Act of 1995".

SEC. 5701. DEFINITIONS.

When used in this subtitle:

(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this Subtitle, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) "Mineral activities" means any activity on Federal lands related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to this Subtitle.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(10) "Secretary" means the Secretary of the Interior.

SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEE.—After the date of enactment of this Subtitle, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Subtitle, shall pay in advance to the Secretary annually on or before September 1, and until a patent has been issued therefor, a maintenance fee of $100 per mining claim or site. The owner of each unpatented mining claim or site located after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), in addition to the location fee required under subsection (c) of this section, an initial maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site. If a mining claim or site is located within 90 days before September 1 and the copy of the notice or certificate of location is timely filed with the Bureau of Land Management under subsection 314(b) of the Federal Land Policy and Management Act of 1976 after September 1, the annual maintenance fee payable under the first sentence of this subsection shall be paid at the time such notice or certificate of location is filed, in addition to the location fee and the initial $100 maintenance fee. No maintenance fee shall be required if the fee is waived or the owner of the mining claim or site is exempt as provided in section 5703 of this Subtitle.

(b) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. Such statement may include the name of the mining claim or site, the serial number assigned by the Secretary to such mining claim or site, the description of the book and page in which the notice or certificate of location for such mining claim or site is recorded under State law, any combination of the foregoing, or any other information that reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(c) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per claim.

(d) CREDIT AGAINST ROYALTY.—The annual claim maintenance fee paid for any unpatented mining claim or site on or before September 1 of any year shall be credited against the amount of royalty required to be paid under Section 5705 for such mining claim or site during the following assessment year.

(e) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay the claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under subsection (a) or subsection (c) of this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: *Provided, however,* That, if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection (a) or subsection (c) of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(f) REPEAL OF OMNIBUS BUDGET RECONCILIATION ACT FEE REQUIREMENTS.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f through 28k) are hereby repealed.

(g) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314 (a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed.

SEC. 5703. WAIVER AND EXEMPTION.

(a) WAIVER OF FEE.—The maintenance fee provided for in subsection 5702(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(b) RELATED PERSONS.—As used in subsection (a), the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(c) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or

inaction of any local, State, or Federal Governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the maintenance fee requirement of subsection (a) of section 5702 for the assessment year following the filing of the certification.

SEC. 5704. PATENTS.

(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this Subtitle shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) RIGHT OF REENTRY.—

(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, a patent issued pursuant to this section shall be subject to a right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mineral activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(2) If the surface of the patented estate is used by the patentee, or any subsequent owners, for any purpose other than for conducting mineral activities in good faith, the Secretary shall serve on all owners of interests in such patented estate, in the manner prescribed for service of a summons and complaint under the Federal Rules of Civil Procedure, notice specifying such unauthorized use and providing not more than 90 days in which such unauthorized use must be terminated. The giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate. The Secretary may exercise the right of reentry as provided in paragraph (3) of this subsection if such unauthorized use has not been terminated in the time provided in this paragraph, and only after all appeal rights have expired and any appeals of such notice have been finally determined.

(3) The Secretary may exercise the right of the United States to reenter such patented estate by filing a declaration of reentry in the office of the Bureau of Land Management designated by the Secretary and recording such declaration where the notice or certificate of location for the patented claim or site is recorded under State law. Upon the filing and recording of such declaration, all right, title and interest in such patented estate shall revert to the United States. Lands and interests in lands for which the United States exercises its right of reentry under this section shall remain open to the location of mining claims and mill sites, unless withdrawn under other applicable law.

(c) PATENT TRANSITION.—Notwithstanding any other provision of law, the requirements of this subtitle (except the payment of maintenance and location fees in accordance with sections 5702 and 5703) shall not apply to those patent applications pending at the Department of the Interior as of September 30, 1995. Such patents shall be issued under or subject to the general mining laws in effect prior to the date of enactment of this subtitle.

SEC. 5705. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Production of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5704(c) applies) or any mining claim patented under subsection 5704(a), including mineral concentrates and products derived from locatable minerals, shall be subject to the payment of a royalty of 2.5 percent on the Net Smelter Return of all ores, minerals, metals, and materials mined and removed and sold.

(2) WAIVER.—If the Secretary determines that the Secretary's cost of accounting for and collecting a royalty for any mineral exceeds or is likely to exceed the amount of royalty to be collected, the Secretary shall waive such royalty. The obligation to pay royalties hereunder shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) EXEMPTION.—Any mine with an annual Revenues Received of less than $500,000 shall be exempt from the requirement to pay a royalty under this section.

(5) REVENUES RECEIVED.—All Revenues Received shall be determined in accordance with generally accepted accounting principles and practices consistently applied. Revenues Received shall be determined by the accrual method.

(7) COMMINGLING.—The payor shall have the right to commingle ore and minerals from the claim, group of claims, or patent comprising an operation, with ore from other lands and properties: *Provided, however,* That the payor shall calculate from representative samples the average grade of the ore before commingling. If concentrates are produced from the commingled ores, the payor shall calculate from representative samples calculating the average grade of the ore, and calculating average recovery percentages the payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

(8) EFFECTIVE DATE.—

(A) IN GENERAL.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(C) TIME FOR PAYMENT.—Any royalty payment attributable to production during the first 15 calendar months after the date of enactment of this subtitle shall be due on the date that is 12 months after the date of enactment of this subtitle.

(10) SPLIT ESTATES.—For circumstances where a claim, group of claims or patent is subject to this section but does not comprise the entirety of a mine, the Annual Revenues and Costs of Produc- * * *

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3026

Mr. DOMENICI (for Mr. BINGAMAN, for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1357, supra: as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R)) is amended by striking "section 1869(b)" and inserting "section 1869 (a) or (b)".

LOTTS (AND JEFFORDS) AMENDMENT NO. 3027

Mr. DOMENICI (for Mr. LOTT, for himself and Mr. JEFFORDS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7)not more than $250,000 to acquire sites at Perryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

BUMPERS (AND OTHERS) AMENDMENT NO. 3028

Mr. BUMPERS (for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

BIDEN AMENDMENT NO. 3029

Mr. BIDEN proposed an amendment to the bill S. 1357, supra; as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

BUMPERS (AND OTHERS) AMENDMENT NO. 3030

Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike "for" on line 4 of page 369 through "thereby" on line 19 on page 395.

BRADLEY AMENDMENT NO. 3031

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking "$345,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate."

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.",

(2) by striking subparagraph (B),

(3) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(4) by redesigning subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

One page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor but)—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

BRADLEY (AND HARKIN) AMENDMENT NO. 3032

Mr. BRADLEY (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

"(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995."

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

DORGAN (AND OTHERS) AMENDMENT NO. 3033

Mr. DORGAN (for himself, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill S. 1357, supra, as follows:

AMENDMENT NO. 3033

Strike section 12141 and insert:

SEC. 12141. CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

"(1) the qualified capital gain of the taxpayer for the taxable year, or

"(2) the excess of—

"(A) $250,000, over

"(B) the aggregate amount allowable as a deduction under this section for prior taxable years.

"(b) QUALIFIED CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) gain for the taxable year from sales or exchanges after October 13, 1995, of capital assets held more than 10 years.

"(2) SALES BETWEEN RELATED PARTIES.—Gains from sales and exchanges to any related person (within the meaning of section 267(b) or 707(b)(1)) shall not be taken into account in determining qualified capital gain.

"(3) SPECIAL RULE FOR SECTION 1250 PROPERTY.—Solely for purposes of this section, in applying section 1250 to any disposition of section 1250 property, all depreciation adjustments in respect of the property shall be treated as additional depreciation.

"(c) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

"(2) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(3) an estate or trust.

"(d) SPECIAL RULES.—

"(1) JOINT RETURNS.—The amount of the qualified capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under subsection (a)(2) for any succeeding taxable year.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes October 14, 1995, the

amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 14, 1995."

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) COORDINATION WITH OTHER PROVISIONS.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced (but not below zero) by the sum of—

"(A) the amount of the qualified capital gain (as defined in section 1202(b)) for the taxable year to the extent taken into account under section 1202(a) for the taxable year, plus

"(B) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(c) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(d) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1) (relating to limitations on deductions of individuals) is amended by adding at the end the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION REDUCED.—In determining the deduction allowable under section 1202, section 1202(a) shall be applied by substituting '25 percent' for '50 percent'".

(2) CONFORMING AMENDMENT.—Section 57(a)(7) is amended by striking "1202" and inserting "1203".

(e) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(f) TECHNICAL AND CONFORMING CHANGES.—(1) Clause (iii) of section 163(d)(4)(B) is amended to read as follows:

"(iii) the sum of—

"(I) the portion of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

"(II) so much of the gain described in subclause (I) which is not taken into account under section 1202 and which the taxpayer elects to take into account under this clause."

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(3) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 and the exclusion under section 1203 (whichever is appropriate) shall be taken into account."

(4) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(5) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account."

(6) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account".

(7) Paragraph (4) of section 691(c) is amended inserting "1203," after "1202,".

(8) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202".

(9)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(10) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(11)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total

of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995."

(12) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply" before the period at the end thereof.

(13) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(14)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent in the case of a corporation" and inserting "19.8 percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent in the case of a corporation" and inserting "19.8 percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)".

(15) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see section 1202."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) COLLECTIBLES.—The amendments made by subsection (e) shall apply to sales and exchanges after October 13, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (f)(11) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (f)(13) shall apply only to amounts paid after the date of the enactment of this Act.

On page 1703, between lines 17 and 18, insert:

(g) CITIZENS BECOMING COVERED EXPATRIATES TO BE TAXED AS RESIDENTS UPON RETURN TO UNITED STATES.—Paragraph (3) of section 7701(b) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR COVERED EXPATRIATES.—Notwithstanding any other provision of this paragraph, in the case of an individual who is treated as a covered expatriate under section 877A by reason of relinquishing the individual's United States citizenship, such individual shall be treated as meeting the substantial presence test of this paragraph with respect to any calendar year if the individual is present in the United States for more than 30 days during the calendar year. The preceding sentence shall not apply to the extent that the Secretary determines its application would contravene any treaty of the United States."

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that (a) the Senate conferees should not recede to the House on the provisions of this chapter eliminating the tax loophole for billionaires and other wealthy individuals who renounce their United States citizenship in order to avoid their fair share of United States taxes; and (b) the Senate reaffirms its commitment to eliminate this tax loophole.

FEINGOLD (AND OTHERS) AMENDMENT NO. 3034

Mr. FEINGOLD (for himself, Mr. WELLSTONE, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SIMON (AND OTHERS) AMENDMENT NO. 3035

Mr. SIMON (for himself, Mr. STEVENS, and Mr. BREAUX) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

WELLSTONE AMENDMENT NO. 3036

Mr. WELLSTONE proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5930, 5931, and 5932.

D'AMATO AMENDMENT NO. 3037

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra; as follows:

On page 187, line 3; and on page 187, line 22, strike "5" and insert "10."

ROTH AMENDMENT NO. 3038

Mr. ROTH proposed an amendment to the bill S. 1357, supra; as follows:

On page 541, strike line 22, and all that follows through page 542, line 2, and insert:

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

"(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.48;

"(IV) October 1, 1997, and before October 1, 1998, 'c' is equal to 1.33; and

"(V) October 1, 1998, and before October 1, 2002, 'c' is equal to 1.23.".

On page 548, between lines 2 and 3, insert the following new section:

SEC. 7019. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN OTHER CONDITIONS.

Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)) is amended, in the matter preceding item (a), by striking "by or in a skilled nursing facility" and inserting "by a skilled nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

On page 548, strike line 3, and all that follows through page 568, line 13, and insert the following:

Subchapter B—Payments to Skilled Nursing Facilities

PART I—PROSPECTIVE PAYMENT SYSTEM

SEC. 7025. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

PART II—INTERIM PAYMENT SYSTEM

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

"(A) the per stay amount applicable to the facility under subsection (d) for the period; and

"(B) the number of stays beginning during the period for which payment was made to the facility for such services.

"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

"(1) AMOUNT FOR FISCAL YEAR 1996.—

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the greater of—

"(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(B) 1.2 percent (1.1 percent for fiscal years after 1997).

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

"(1) the sum of—

"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

"(2) the average number of days per stay for all residents of the skilled nursing facility.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—The Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(i) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 7031, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(T) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

"(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REVISED SALARY EQUIVALENCE LIMITS.

The Secretary of Health and Human Services shall determine the non-routine per stay payment amounts for each skilled nursing facility established under section 1888A of the Social Security Act, as added by section 7032, as if salary equivalence guidelines were

in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7025) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 7038. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

On page 774, between lines 2 and 3, insert the following:

"(g) SOLVENCY STANDARDS.—A medicaid plan shall provide that any State law solvency requirements that apply to private sector health plans and providers shall apply to the State medicaid plan and providers under such plan.

Beginning on page 775, strike line 14 and all that follows through page 776, line 10, and insert the following:

"(1) SET-ASIDES.—Subject to subsection (e)—

"(A) GENERAL SET-ASIDE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The medicaid plan shall provide priority for making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 (not including expenditures for such fiscal year taken into account under subparagraph (B)) which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'targeted low-income elderly individual' means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

On page 813, strike lines 4 through 10, and insert the following:

"(A) fiscal year 1996 is $97,245,440,000;
"(B) fiscal year 1997 is $102,607,730,702;
"(C) fiscal year 1998 is $106,712,039,930;
"(D) fiscal year 1999 is $110,980,521,527;
"(E) fiscal year 2000 is $115,419,742,389;
"(F) fiscal year 2001 is $120,036,532,084;
"(G) fiscal year 2002 is $124,837,993,367;

On page 814, strike lines 9 through 24, and insert the following:

fiscal year 1996, subject to paragraph (4), is 109 percent of—

"(i) the greatest of—

"(I) the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1995,

"(II) 103.379859 percent of the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994, or

"(III) 95 percent of the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1993; multiplied by

"(ii) the scalar factor described in subparagraph (D).

Beginning on page 815, line 10, strike all through page 816, line 13 and insert the following:

"(D) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is the ratio of $89,216,000,000 to the total amount of Federal expenditures (minus the amount paid under section 1923) made to all States and the District of Columbia for the 4 quarters in fiscal year 1995.

Beginning on page 818, line 12, strike all through page 819, line 8, and insert the following:

"(A) FLOOR.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

"(I) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

"(II) .24 percent of the pool amount for such fiscal year; or

"(III) in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.9 percent of such State's or District's outlay allotment for 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the preceding fiscal year.

"(ii) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

"(I) For fiscal year 1999, 104.25 percent.

"(II) For fiscal years 2000 and 2001, 104 percent.

"(III) For fiscal year 2002, 103.4 percent.

"(B) CEILING.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

"(II) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage is—

"(I) for fiscal year 1997, 125.5 percent;
"(II) for fiscal year 1998, 132 percent;
"(III) for fiscal year 1999, 151 percent;
"(IV) for fiscal year 2000, 156 percent;
"(V) for fiscal year 2001, 144 percent.
"(VI) for fiscal year 2002, 146 percent.

On page 833, line 21, after "section 2121" insert ", plus any additional amount available to such State under subsection (g) or (h),".

On page 858, before line 19, insert the following new subsection:

"(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) CARRYOVER OF ALLOTMENT PERMITTED.—

"(A) IN GENERAL.—If the amount of the payment to a State under this section for a fiscal year does not exceed—

"(i) the amount of the allotment provided to such State under section 2121 for such fiscal year, plus

"(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2)) resulting from the application of this subparagraph in the preceding fiscal year,

then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

"(B) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference described in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 to a State may not exceed the total amount for the 2 immediately preceding fiscal years of the difference in each such fiscal year between the payment to a State under this section and the amount of the allotment provided under section 2121.

"(2) EXCESS AMOUNTS REALLOCATED.—

"(A) IN GENERAL.—The sum of the amounts in excess of the maximum carryover amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and

the District of Columbia shall be available for payment in such fiscal year to qualified States on a quarterly basis as otherwise determined under this section.

"(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

"(i) with a State outlay allotment under section 2121 which is—

"(I) subject to the ceiling determined under section 2121(c)(3)(B) for the fiscal year,

"(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

"(III) subject to such floor:

"(ii) which has no amount of difference as determined under paragraph (1) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year: and

"(iii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

"(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments applied for by all qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate such payments among groups of qualified States in the following order:

"(i) All qualified States described in subparagraph (B)(i)(I).

"(ii) All qualified States described in subparagraph (B)(i)(II).

"(iii) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

"(h) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) APPROPRIATION.—There is hereby authorized to be appropriated and there are appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

"(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

"(A) For Arizona, $63,000,000.

"(B) For Florida, $250,000,000.

"(C) For Georgia, $34,000,000.

"(D) For Kentucky, $76,500,000.

"(E) For South Carolina, $181,000,000.

"(F) For Washington, $250,000,000.

"(G) For Vermont, $50,000,000.

On page 858, line 19, strike "(g)" and insert "(i)".

At the end of Subtitle B of Title VII insert:

SEC. 7196: ADJUSTMENT OF POOL AMOUNTS

Notwithstanding any other provisions in law, the Secretary shall adjust Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 for each state by a proportionate amount such that total Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 shall not exceed the amounts provided in section 2121(b)(1) of Social Security Act as added by section 7191(a) of this Act,

a. reduced by $1,900,000,000 in FY 1996, and increased by a similar amount in the subsequent fiscal year; and

2b. reduced by $2,300,000,000 in FY 2000, and increased by a similar amount in the subsequent fiscal year.

Beginning on page 889, line 20, strike all through page 897, line 19, and insert the following: collected shall be paid to such individual,

"(c) EFFECTIVE DATE—Notwithstanding any other provision of law, subsection (b) shall be effective on and after January 1, 1996.

"SEC. 2137. REQUIREMENTS FOR NURSING FACILITIES.

"(a) REQUIREMENTS FOR NURSING FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day after the date of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

"(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

"(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

"(i) are equivalent to or stricter than the requirements imposed under paragraph (1); and

"(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect,

may apply to the Secretary for a waiver of the requirements imposed under paragraph (1).

"(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under subparagraph (A) not later than 120 days after the date the application is submitted.

"(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

"(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

"(i) the penalty described in subsection (b);

"(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

"(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

"(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 2 percent of the State outlay allotment under section 2121(c) for such fiscal year if the Secretary makes a determination that a State medicaid plan has failed to comply with a provision of section 1919, as so in effect, or any State law requirements applicable to such plan under a waiver granted under subsection (a)(2)(A).

On page 980, between lines 2 and 3, insert the following new sections:

SEC. 7196. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(iii) (42 U.S.C. 1396r(e)(7)(B)(iii)) is amended to read as follows:

"(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.".

(2) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking "ANNUAL".

(3) The heading for section 1919(e)(7)(D)(i) (42 U.S.C. 1396r(e)(7)(D)(i)) is amended by striking "ANNUAL".

SEC. 7197. NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

SEC. 7198. MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicaid program under title XXI of such Act (in this section referred to as the "medicare and medicaid programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 10 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries

who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and medicaid programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the day before the date of the enactment of this Act), of any items and services provided to chronically-ill elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section.

(g) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicaid and medicare programs as a result of the demonstration project.

On page 1394, after line 19, insert the following:

SEC. 7482. COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEAR 1996.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average for all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

Beginning on page 786, strike line 9 and all that follows through page 788, line 6.

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

• Mr. SANTORUM. Mr. President, on January 31, 1995, I introduced my first bill as a U.S. Senator, S. 3004, the Commercial Aviation Fuel Tax Repeal Act. We are now on the verge of passing a budget which, for the first time in 26 years, will balance the Federal budget and eliminate the Federal deficit. I am proud to note that S. 304 has been incorporated to a great extent into this historic budget. As a result, I wish to take this time to mention the thousands of workers and the many unions and business professionals who have provided consistent support for this crucial piece of legislation.

First, I wish to submit for the record a resolution as passed by the National Aerospace Workforce Coalition. Throughout the debate on the aviation fuel tax issue, I worked closely with the National Aerospace Workforce Coalition. This organization consists of local unions and workforce associations. The coalition represents some 42 different unions in 29 States. Many of my colleagues have received letters and phone calls from coalition members in their States. The coalition believes, as I do, that a commercial aviation fuel tax will be extremely harmful to America's manufacturing base.

The resolution which I have submitted goes to the heart of the relationship between a tax on jet fuel and commercial aircraft orders, namely, that every increase in taxes on commercial jet fuel will be followed by more cancellations and deferred orders of American made engines and aircraft.

The labor unions supporting the repeal of this fuel tax include the spectrum of America's aerospace industrial base. This resolution has been passed by unions representing scientists and engineers, production workers, as well as unions engaged in casting and fabricating the specialized metals used in the production of modern aircraft.

Further, I wish to note that the International Association of Machinist and Aerospace Workers, District Lodge 141 passed a similarly worded resolution on October 24, 1995. This union represents 34,000 members at 13 airlines, and their delegates unanimously passed this resolution at their annual convention.

The balanced budget which the Senate will pass shortly relieves the airline industry from any unfair tax, but only for a limited time. Currently, the House of Representatives has extended the aviation fuel tax exemption for 2 years and the Senate shall extend it for only 17 months. I am pleased that in these difficult budgetary times both Chambers have recognized not only the unfairness of this unprecedented tax, but the critical need to avoid further hindering a struggling industry. However, absent outright repeal, I strongly believe that any extension of the exemption must run for at least 2 years. I will work hard during the House-Senate conference on the budget to ensure that the extension extends for at least this long. Further, it is critical for the Congress to address broader taxation and fee issues with respect to the airline industry during the next session of the 104th Congress. I will work to hold hearings on this issue in the spring of 1996.

The reasons for at least a 2-year extension are clear. U.S. airlines have lost money every year since 1990, with losses for the period totaling almost $13 billion. Almost one-half of all major U.S. airlines have filed for chapter 11 bankruptcy protection during the crisis, including America West, Continental, twice, TWA, twice, Eastern, Pan Am, and Midway. The last three have ceased operations altogether. Cumulative industry debt since 1990 has increased from $9 billion to $46 billion, and the bonds of all major U.S. airlines are rated as junk bonds. Airlines are facing Government-mandated fleet replacement costs to upgrade fleets to quiet technology aircraft that will exceed $15 billion a year through the rest of the decade. Imposing a fuel tax now, at a cost of $527 million a year, would wreak havoc on an industry struggling to survive.

In addition, the airline industry has historically paid excise and cargo fees in lieu of any fuel tax. These fees will exceed $6.9 billion in 1995. Imposing a fuel tax absent any broader effort at reassessing these other taxes would be both unprecedented and unfair.

Hence, for both fiscal and fairness reasons, an extension of the aviation fuel tax exemption is greatly needed. While we in the Senate have taken steps in the right direction by incorporating S. 304, in part, into this year's budget act, we must continue to ensure that the airline industry is taxed fairly. This industry is one of our Nation's last great manufacturing gains, and its tens of thousands of workers deserve the right to continue to uphold America's predominance in this critical industry.

I ask that the National Aerospace Workforce Coalition resolution referred to earlier be printed in the RECORD.

The resolution follows:

AVIATION FUEL TAX RESOLUTION

Whereas our country's airline industry has suffered enormous losses over the last five years, reducing airline employment by more than 120,000 workers and forcing remaining workers to accept reductions in wages and benefits;

Whereas several years ago government mandates required the airline companies to pay excise taxes and fees in lieu of a fuel tax, which today collectively amounts to more than 52 cents per gallon of fuel and places our nation's airline companies at a competitive disadvantage;

Whereas there is a direct relationship between a healthy airline industry and a healthy aerospace industry, and that only profitable airlines can modernize their fleets with American-built engines and aircraft to help revive an aerospace industry already devastated by drastic cuts in defense;

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

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Senate

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 105 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 1. 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:

Subtitle A—Commodity Programs

SEC. 1101. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PROGRAMS.

(a) IN GENERAL.—Title III of the Agricultural Act of 1949 (7 U.S.C. 1447 et seq.) is amended to read as follows:

"TITLE III—ANNUAL PROGRAMS FOR 1996 THROUGH 2002 CROPS

"SEC. 301. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PROGRAMS.

"(a) IN GENERAL.—To be eligible for enrollment in 1 or more of the annual programs established under this title, the land on a farm must

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Subtitle D—Nutrition Assistance

CHAPTER 1—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 the following:

"(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 subsection (e), 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) by striking "food stamps."; and

(C) by striking paragraph (2).

SEC. 1407. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) in the second sentence—

(A) by striking "and (4)" and inserting "(4)";

(B) by inserting "through October 1, 1994" after "October 1 thereafter"; and

(C) by inserting before the period at the end the following: ", and (5) on October 1, 2002, and each October 1 thereafter, the Secretary shall adjust the standard deduction to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food, for the 12-month period ending the preceding June 30";

(2) in the third sentence, by striking "willfully or fraudulently" and all that follows through "to report" and inserting "has not reported";

(3) in the seventh sentence, by striking "may use a standard" and all that follows through "except that a" and inserting "may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if 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 the Secretary finds that the standards will not result in an increased cost to the Secretary. A State agency that has not made the use of a standard utility allowance mandatory under the preceding sentence 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. A"; and

(4) by striking "A State agency shall allow a household to switch" and all that follows through "twelve-month period.".

(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 the following: "A State agency may develop a standard homeless shelter deduction, 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 deduction may use the deduction in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the deduction for households with extremely low shelter costs:".

SEC. 1408. AMOUNT OF VEHICLE ASSET LIMITATION.

The first sentence of section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking "through September 30, 1995" and all that follows through "such date and on" and inserting "and shall be adjusted on October 1, 1996, and".

SEC. 1409. BENEFITS FOR ALIENS.

Section 5(i) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by inserting "or who executed such an affidavit or similar agreement to enable the individual to lawfully remain in the United States." after "respect to such individual,"; and

(B) by striking "for a period" and all that follows through the period at the end of the sentence and inserting "until the end of the period ending on the later of the date agreed to in the affidavit or agreement or the date that is 5 years after the date on which the individual was first lawfully admitted into the United States following the execution of the affidavit or agreement.";

(2) in paragraph (2)—

(A) in the first sentence of subparagraph (C)(i), by striking "of three years after entry into the United States" and inserting "determined under paragraph (1)";

(B) in the first sentence of subparagraph (D), by striking "of three years after such alien's entry into the United States" and inserting "determined under paragraph (1)"; and

(C) by adding at the end the following:

"(F) LIMITATION ON MEASUREMENT OF ATTRIBUTED INCOME AND RESOURCES.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, if a determination described in clause (ii) is made, the amount of income and resources of the sponsor or the sponsor's spouse that shall be attributed to the sponsored individual shall not exceed the amount actually provided to the individual, for—

"(I) the 12-month period beginning on the date of the determination; or

"(II) if the address of the sponsor is unknown to the sponsored individual on the date of the determination, the 12-month period beginning on the date the address becomes known to the sponsored individual or to the Secretary (who shall inform the individual of the address not later than 7 days after learning the address).

"(ii) DETERMINATION.—The determination described in this clause shall be a determination by the Secretary that a sponsored individual would, in the absence of the assistance provided by this Act, be unable to obtain food, taking into account the individual's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor."; and

(3) by adding at the end the following:

"(3) TREATMENT OF NONCITIZENS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a noncitizen who has entered into the United States on or after the date of the enactment of this paragraph shall not, during the 5-year period beginning on the date of the noncitizen's entry into the United States, be eligible to receive any benefits under this Act.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any individual who is—

"(i) a noncitizen granted asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or whose deportation has been withheld under section 243(h) of the Act (8 U.S.C. 1253(b)) for a period of not more than 5 years after the date the noncitizen arrived in the United States;

"(ii) a noncitizen admitted to the United States as a refugee under section 207 of the Act (8 U.S.C. 1157) for not more than 5 years after the date the noncitizen arrived in the United States; or

"(iii) a noncitizen, lawfully present in any State (or any territory or possession of the United States), who 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; or

"(II) the spouse or unmarried dependent child of a veteran described in subclause (I).".

SEC. 1410. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended—

(1) by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through "shall be ninety days. The" and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) 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) OTHER CONDITIONS.—The"; and

(2) in paragraph (1), by striking "Any period of ineligibility" and all that follows through "violated.".

(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. 1411. 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 by adding at the end the following:

"(O) 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(n).

"(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 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 State agency may consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or the 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 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) is amended by adding at the end 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 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 a prior disqualification 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)".

SEC. 1414. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1413) is further amended by adding at the end the following:

"(j) 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.).".

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:

"(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(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 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 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. 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:

"(l) PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be permanently ineligible to participate in the food stamp program as a member 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 statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under the food stamp program.".

SEC. 1417. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1416) is further amended by adding at the end the following:

"(m) 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 subsection (d)(4) other than a job search program or a job search training program under clause (i) or (ii) of subsection (d)(4)(B).

"(2) WORK REQUIREMENT.—Except as otherwise provided in 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 6 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.

"(3) EXCEPTIONS.—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; or

"(D) otherwise exempt under subsection (d)(2).

"(4) 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 PROVISION.—Prior to October 1, 1996, the term "preceding 12-month period" in section 6(m)(2) of the Food Stamp Act of 1977 (as added by subsection (a)) means the preceding period that begins on October 1, 1995.

SEC. 1418. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1417) is further amended by adding at the end the following:

"(n) 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 laws

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) violating a condition of 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:

"(j) ELECTRONIC BENEFIT TRANSFERS.—

"(1) APPLICABLE LAW.—

"(A) IN GENERAL.—Disclosures, protections, responsibilities, and remedies established by the Federal Reserve Board under section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) shall not apply to benefits under this Act delivered through any electronic benefit transfer system.

"(B) DEFINITION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—In this paragraph, the term 'electronic benefit transfer system' means a system under which a governmental entity distributes benefits under this Act or other benefits or payments by establishing accounts to be accessed by recipients of the benefits electronically, including through the use of an automated teller machine, a point-of-sale terminal, or an intelligent benefit card.

"(2) CHARGING FOR ELECTRONIC BENEFIT TRANSFER CARD REPLACEMENT.—

"(A) IN GENERAL.—A State agency may charge an individual for the cost of replacing a lost or stolen electronic benefit transfer card.

"(B) REDUCING ALLOTMENT.—A State agency may collect a charge imposed under subparagraph (A) by reducing the monthly allotment of the household of which the individual is a member.".

SEC. 1420. MINIMUM BENEFIT.

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. 1421. 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. 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:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—If the benefits of a household are reduced under a Federal, State, or local law relating to a welfare or public assistance program for 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 the result of a 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:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.—In the case of an individual who resides in a homeless shelter, or in an institution or 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—

"(1) the institution as an authorized representative for the individual for a period that is less than 1 month; and

"(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, a 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 (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) HARDSHIPS.—A State agency may not use an allotment reduction under paragraph (1)(A) as a means of collecting an overissuance from a household if the allotment reduction would cause a hardship on the household, as determined by the State agency.

"(4) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible 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 reduce the monthly allotment of the household under paragraph (1)(A) 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."; 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 AMENDMENT.—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"; and

(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".

SEC. 1425. TERMINATION OF FEDERAL MATCH FOR OPTIONAL INFORMATION ACTIVITIES.

(a) IN GENERAL.—Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) CONFORMING AMENDMENT.—Section 16(g) of the Act (7 U.S.C. 2025(g)) is amended by striking "an amount equal to" and all that follows through "1991, of" and inserting "the amount provided under subsection (a)(5) for".

SEC. 1426. 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:

"(k) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION.—In this subsection, the term 'work supplementation or support program' means a program in which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a new employee who is a public assistance recipient.

"(2) 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.

"(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 paid 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) MAXIMUM LENGTH OF PARTICIPATION.—A work supplementation or support program may not allow the participation of any individual for longer than 1 year, unless the Secretary approves a longer period.".

SEC. 1427. PRIVATE SECTOR EMPLOYMENT INITIATIVES.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end the following:

"(m) PRIVATE SECTOR EMPLOYMENT INITIATIVES.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out a private sector employment initiative program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out a private sector employment initiative 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 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 cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(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 in the private sector 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 eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) 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.".

SEC. 1428. REAUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "2002".

SEC. 1429. OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.

"(a) 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;

"(2) at the option of a State, wage subsidies and payments in return for work for needy individuals under the program;

"(3) funds to operate an employment and training program under subsection (g)(2) for needy individuals under the program; and

"(4) funds for administrative costs incurred in providing the assistance.

"(b) ELECTION.—

"(1) IN GENERAL.—A State may elect to participate in the program established under subsection (a).

"(2) ELECTION REVOCABLE.—A State that elects to participate in the program established under subsection (a) may subsequently reverse the election of the State only once thereafter. Following the reversal, 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 receive a block grant under this section.

"(3) PROGRAM EXCLUSIVE.—A State that is participating in the program established under subsection (a) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

"(c) LEAD AGENCY.—

"(1) DESIGNATION.—A State desiring to participate in the program established under this section shall designate, in an application submitted to the Secretary under subsection (d)(1), an appropriate State agency that complies with paragraph (2) to act as the lead agency for the State.

"(2) DUTIES.—The lead agency shall—

"(A) administer, either directly, through other State agencies, or through local agencies, the assistance received under this section by the State;

"(B) develop the State plan to be submitted to the Secretary under subsection (d)(1); and

"(C) coordinate the provision of food assistance under this section with other Federal, State, and local programs.

"(d) 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);

"(ii) at the option of a State, to provide wage subsidies or workfare under section 20(a) (except that any reference in section 20(a) to an allotment shall be considered a reference to the food assistance or benefits in lieu of food assistance received by an individual or family during a month under this section) for needy individuals and families participating in the program;

"(iii) to administer an employment and training program under subsection (g)(2) for needy individuals under the program and to provide reimbursements to needy individuals and families as would be allowed under section 16(h)(3); and

"(iv) to pay administrative costs incurred in providing the assistance.

"(C) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

"(D) 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.

"(E) OTHER ASSISTANCE.—

"(i) COORDINATION.—The State plan may coordinate assistance received under this section with assistance provided under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(ii) PENALTIES.—If an individual or family is penalized for violating part A of title IV of the Act, the State plan may reduce the amount of assistance provided under this section or otherwise penalize the individual or family.

"(F) ELIGIBILITY LIMITATIONS.—The State plan shall describe the income and resource eligibility limitations that are established for the receipt of assistance under this section.

"(G) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system to verify and otherwise ensure that no individual or family shall receive benefits under this section in more than 1 jurisdiction within the State.

"(H) 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.

"(I) 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.

"(e) LIMITATIONS ON STATE ALLOTMENTS.—

"(1) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(A) entitles any individual or family to assistance under this section; or

"(B) limits the right of a State to impose additional limitations or conditions on assistance under this section.

"(2) CONSTRUCTION OF FACILITIES.—No funds made available under this section shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement of any building or facility.

"(f) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual shall be eligible to receive benefits under a State plan approved under subsection (d)(4) if the individual is not eligible to participate in the food stamp program under section 6(f).

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(g) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—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 (m) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program described in section 6(d)(4) for needy individuals under the program.

"(h) 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 (d)(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 (d)(4); or

"(ii) 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 payments 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 payments 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 SANCTIONS.—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 sanctions described in subparagraph (A), impose other appropriate sanctions, 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 sanction 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 concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing sanctions under this section.

"(4) INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—The Secretary may withhold not more than 5 percent of the amount allotted to a State under subsection (l)(2) if the State does not use an income and eligibility verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b-7).

"(i) PAYMENTS.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (d)(4) an amount that is equal to the allotment of the State under subsection (l)(2) for the fiscal year.

"(2) METHOD OF PAYMENT.—The Secretary shall make payments 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 FUNDS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), payments to a State from an allotment under subsection (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 reserved funds may not exceed 30 percent of the total allotment received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, of the Federal funds expended by a State under this section—

"(A) not less than 80 percent shall be for food assistance; and

"(B) not more than 6 percent shall be 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 to provide food assistance to needy individuals and families in the State, such as electronic benefits transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(6) 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 3(g).

"(j) AUDITS.—

"(1) REQUIREMENT.—After the close of each fiscal year, a State shall arrange for an audit of the expenditures of the State during the program period from amounts received under this section.

"(2) 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 be in accordance with generally accepted auditing principles.

"(3) 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.

"(4) 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 legislature of the State and to the Secretary.

"(5) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this section to have not been expended in accordance with 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.

"(k) 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).

"(l) ALLOTMENTS.—

"(1) 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.

"(2) STATE ALLOTMENT.—

"(A) 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 shall 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—

"(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 and the employment and training program under subsections (a) and (h), respectively, of section 16 of this Act for fiscal year 1994; or

"(II) 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 (h), respectively, of section 16 of this Act for each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of allotments 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 allotments for the fiscal year, the Secretary shall reduce the allotments made to States under this subsection, on a pro rata basis, to the extent necessary to allot under this subsection a total amount that is equal to the funds that will be made available.".

SEC. 1430. EFFECTIVE DATE.

Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall become effective on October 1, 1995.

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. 1753(b)(2)) is amended by striking "except that" and all that follows through "2 cents more".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 1442. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.

(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(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) ROUNDING.—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.

"(E) ADJUSTMENT ON JANUARY 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.

"(F) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-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 rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(G) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustments made under this paragraph for—

"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid lunches for the school year beginning July 1, 1995; and

"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the school year beginning July 1, 1995;

"(ii) adjust each resulting amount in accordance with subparagraph (C); and

"(iii) round each result 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. 1773(b)) is amended—

(1) in paragraph (1)(B)—

(A) in the first sentence, by striking "section 11(a)" and inserting "subparagraphs (B) through (E) of section 11(a)(3)"; and

(B) in the second sentence, by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to subparagraphs (B) through (E) of section 11(a)(3) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)))"; and

(2) in paragraph (2)(B)(ii)—

(A) by striking "nearest one-fourth cent" and inserting "nearest lower cent increment for the applicable school year"; and

(B) by inserting before the period at the end the following: ", and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 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. 1773(b)(1)(B)) is amended by striking "8.25 cents" and all that follows through "Act)" and inserting "the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(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 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsection (g).

(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) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as 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 HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a 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 incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a 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. 1771 et seq.); or

"(cc) a 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 verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), 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 provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(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 increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (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 down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided 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 provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined 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 subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection 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).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or 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 the eligibility standard for free or reduced price meals under section 9 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 (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 1461(a)(1) of the Agricultural Reconciliation Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.

"(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 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 1461(a)(1) of the Agricultural Reconciliation Act of 1995).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(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 or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)." after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(b) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall become effective on August 1, 1996.

CHAPTER 3—ADDITIONAL SAVINGS

SEC. 1471. 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 "17".

SEC. 1472. STANDARD DEDUCTION.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by adding at the end the following: "Notwithstanding any other provision of this subsection, the Secretary shall allow a standard deduction of $134 for fiscal year 1995, $132 for the period consisting of October 1, 1995, through December 31, 1995, and $116 for the period consisting of January 1, 1996, through fiscal year 2002, except that households in Alaska, Hawaii, Guam, and the Virgin Islands of the United States shall be allowed a standard deduction of $229, $189, $269, and $118, respectively, for fiscal year 1995; $225, $186, $265, and $116, respectively, for the period consisting of October 1, 1995, through December 31, 1995; and $198, $164, $233, and $102, respectively, for the period consisting of January 1, 1996, through fiscal year 2002.".

SEC. 1473. 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)) (as amended by section 1406(b)(1)(B)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively.

SEC. 1474. EXTENDING CLAIMS RETENTION RATES.

The first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 1475. 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, $1,171,000,000 for fiscal year 1997, $1,212,000,000 for fiscal year 1998, $1,255,000,000 for fiscal year 1999, $1,299,000,000 for fiscal year 2000, $1,342,000,000 for fiscal year 2001, and $1,376,000,000 for fiscal year 2002".

SEC. 1476. 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.—The value of food assistance for each meal shall be adjusted each July 1 by 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 each year.

"(ii) ADJUSTMENTS.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;

"(II) adjust the resulting amount in accordance with clause (i); and

"(III) round the result to the nearest lower cent increment.

"(iii) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the value of food assistance for the remainder of the school year by rounding the previously established value of food assistance to the nearest lower cent increment.

"(iv) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the value of food assistance shall be the same as the value of food assistance in effect on June 30, 1996.

"(v) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the value of food assistance for the school year beginning July 1, 1995;

"(II) 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

"(III) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 1477. COMMODITY ASSISTANCE.

(a) IN GENERAL.—Section 6(g) of the National School Lunch Act (42 U.S.C. 1755(g)) is amended by striking "12 percent" and inserting "10 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 1478. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13(b) of the National School Lunch Act (42 U.S.C. 1761(b)) is amended—

(1) by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) SERVICE INSTITUTIONS.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $1.82 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.";

(2) in the second sentence of paragraph (3), by striking "levels determined" and all that follows through "this subsection" and inserting "level determined by the Secretary"; and

(3) by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1479. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(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) ADJUSTMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with paragraph (7); and

"(iii) round the result to the nearest lower cent increment.

"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously established minimum rate to the nearest lower cent increment.

"(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the minimum rate shall be the same as the minimum rate in effect on June 30, 1996.

"(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;

"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

"(iii) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 1480. NUTRITION EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended by striking "$10,000,000" and inserting "$7,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1996.

SEC. 1481. EFFECTIVE DATE.

Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall become effective on October 1, 1995.

CHAPTER 4—EFFECTIVE DATE

SEC. 1491. EFFECTIVE DATE.

Notwithstanding any other provision of this subtitle, if the Act entitled "An Act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence" is enacted on or before December 31, 1996, the amendments made by chapters 1 and 2 of this subtitle shall be effective only during the period prior to the date of enactment of such Act.

ever in subtitles A through C of this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

(c) TABLE OF CONTENTS OF 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.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, when-

"Subpart 1—Definitions

"SEC. 1895A. DEFINITIONS.

"(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 benefits coverage to medicare choice eligible individuals.

"(2) MEDICARE CHOICE PLAN SPONSOR.—The terms '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:

"(1) 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) INDEMNITY OR FEE-FOR-SERVICE PLANS.—Private indemnity plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule.

"(ii) COORDINATED CARE PLANS.—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).

"(2) UNION OR ASSOCIATION PLAN.—

"(A) IN GENERAL.—The term 'union or association plan' means an eligible health plan with a union sponsor, a Taft-Hartley sponsor, or a qualified association sponsor that—

"(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 exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii);

"(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.

"(B) 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.

"(C) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means, with respect to a group health plan established or maintained by 2 or more employees or jointly by 1 or more employees and 1 or more employee organizations, 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, a 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.

"(c) 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 such area is in a single State) or in the case of a consolidated metropolitan statistical area, each primary metropolitan statistical area within the consolidated area; or

"(II) one area within each State composed 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).

"(iii) AREAS.—In this subparagraph, the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(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 December 31, 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.

"Subpart 2—Entitlement of Medicare Choice Eligible Individuals to Health Care Choices

"SEC. 1895B. ENTITLEMENT TO MEDICARE CHOICES.

"Each medicare choice eligible individual is entitled to choose to receive health care items and services covered under parts A and B—

"(1) through the traditional medicare program; or

"(2) by receiving payments toward the individual's enrollment in a medicare choice plan under this part.

"SEC. 1895C. ENROLLMENT PROCEDURES.

"(a) IN GENERAL.—Except as provided in section 1895G(a)(2), each 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—

"(1) the annual open enrollment period described in section 1895G(b)(1); or

"(2) any other enrollment period described in section 1895G(b)(2) applicable to the individual.

"(b) METHOD OF ENROLLMENT AND DISENROLLMENT.—

"(1) NOTICE PROVIDED TO THE SECRETARY.—Each medicare choice eligible individual desiring to enroll or terminate enrollment in a medicare choice plan shall provide the Secretary with notice of such enrollment or disenrollment during any enrollment period applicable to the individual. The Secretary shall, to the extent feasible, provide for the receipt of such notice by telephone, through the mail, and in person at local social security offices.

"(2) INFORMATION FORWARDED TO THE PLAN.—The Secretary shall promptly provide each medicare choice plan with notice of an individual's enrollment or disenrollment with the plan.

"(c) NOTICES TO INDIVIDUALS TO ASSIST IN ENROLLMENT.—

"(1) OPEN SEASON NOTIFICATION.—

"(A) MAILING OF NOTICE.—By September 30 of each year beginning after 1995, the Secretary shall mail a notice of eligibility to 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 1895G(b)(1).

"(B) NOTICE DESCRIBED.—The notice described in subparagraph (A) shall include an informational brochure that includes the information described in this section and any other information that the Secretary determines will assist the individual's enrollment decision.

"(2) NOTIFICATION TO NEWLY MEDICARE CHOICE ELIGIBLE INDIVIDUALS.—With respect to an individual who becomes eligible to enroll in a medicare choice plan during the period described in section 1895G(b)(2)(A) and to whom paragraph (1) does not apply, the Secretary shall, not later than 2 months before the date on which the individual becomes eligible, mail to the individual the notice of eligibility described in paragraph (1).

"(d) SECRETARY'S MATERIALS; CONTENTS.—The notice and informational materials mailed by the Secretary under subsection (c) shall be written and formatted in the most easily understandable manner possible, and shall include, at a minimum, the following:

"(1) GENERAL INFORMATION.—General information with respect to coverage under this part during the next calendar year, including—

"(A) the part B premium rates that will be charged for part B coverage.

"(B) the deductible, copayment, and coinsurance amounts for coverage under the traditional medicare program,

"(C) a description of the coverage under the traditional medicare program and any changes in coverage under the program from the prior year,

"(D) a description of the individual's medicare payment area, and the standardized medicare payment amount available with respect to such individual,

"(E) information and instructions on how to enroll in a medicare choice plan,

"(F) the right of each medicare choice plan sponsor by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the medicare choice plan under this part, and

"(G) to the extent available, quality indicators for the traditional medicare program and each medicare choice plan, including—

"(i) disenrollment rates for medicare enrollees for the previous 2 years (excluding disenrollment due to death or moving outside the plan's medicare service area), and

"(ii) information on medicare enrollee satisfaction and health outcomes.

"(2) PLAN-SPECIFIC INFORMATION.—Information for the next calendar year for each medicare choice plan in the individual's medicare payment area, including—

"(A) the plan's medicare service area,

"(B) the enrollee's rights to benefits under the plan, including—

"(i) covered items and services,

"(ii) deductible, coinsurance, and copayment amounts, and

"(iii) the enrollee's liability for payment amounts billed in excess of the plan's fee schedule,

"(C) the extent to which enrollees may select the providers of their choice (from within or outside the plan's network of providers if applicable) and the restrictions (if any) on the plan's payment for services furnished to the enrollees by other than the plan's participating providers,

"(D) out-of-area coverage provided by the plan,

"(E) coverage of emergency services and urgently needed care,

"(F) appeal rights of enrollees, including the right to address grievances to the Secretary or the applicable external review entity,

"(G) whether the plan is out-of-compliance with any requirements of this part (as determined by the Secretary),

"(H) the plan's premium price submitted under section 1895N(a)(1) and an indication of the difference between such premium price and the standardized medicare payment amount, and

"(I) optional supplemental coverage available from the plan, including—

"(i) the supplemental items and services covered, and

"(ii) the premium price for the optional supplemental benefits.

"(e) ASSISTANCE.—

"(1) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY.—In order to promote the efficient administration of this section and this part, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment under this section.

"(2) USE OF NON-FEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under subsection (d).

"(3) PLANS.—Each medicare choice plan sponsor shall provide such information as the Secretary requests with respect to a medicare choice plan in order to carry out activities under subsection (d).

"SEC. 1895D. EFFECT OF ENROLLMENT.

"(a) PREMIUM DIFFERENTIALS.—If a medicare choice eligible individual enrolls in a medicare choice plan, the individual—

"(1) shall receive a rebate in the amount determined under section 1895N(b) if the plan's premium is less than the standardized medicare payment amount; and

"(2) shall be required to pay the plan's premium in excess of the standardized medicare payment amount.

"(b) PERIOD OF ENROLLMENT.—

"(1) ANNUAL ENROLLMENT PERIOD.—An individual enrolling in a medicare choice plan during the annual open enrollment period under section 1895G(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 plan under section 1895G(b)(2) shall be enrolled in the plan for the portion of the calender year on and after the date on which the enrollment becomes effective (as specified by the Secretary).

"(3) TERMINATIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, an individual may not terminate enrollment in a medicare choice plan before the next annual open enrollment period applicable to the individual.

"(B) QUALIFYING EVENTS.—Notwithstanding subparagraph (A), an individual may terminate enrollment in a medicare choice plan if—

"(i) the individual moves to a new medicare service area, or

"(ii) the individual has experienced a qualifying event (as determined by the Secretary).

"(C) FOR CAUSE.—Notwithstanding subparagraph (A), an individual may terminate enrollment in a medicare choice plan if the plan fails to meet quality or capacity standards or for other cause as determined by the Secretary.

"(D) TERMINATION AFTER INITIAL ENROLLMENT.—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 another medicare choice plan or the traditional medicare program.

"(4) SEAMLESS ENROLLMENT.—If a medicare choice eligible individual is enrolled in a medicare choice plan under this part and such individual fails to provide the Secretary with notice of the individual's enrollment or disenrollment under section 1895C(b)(1) during any open enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

"(5) SPECIAL RULES FOR HIGH DEDUCTIBLE PLANS.—In the case of a high deductible plan described in section 1895A(b)(1)(B)(iii) operated in connection with a medicare choice account, an individual may not terminate enrollment in the plan (other than under paragraph (3) (B), (C), or (D)) without at least 12 months notice given during the annual open enrollment period under section 1895C(b)(1).

"(6) SPECIAL RULES FOR UNION, TAFT-HARTLEY, OR ASSOCIATION PLANS.—The Secretary shall establish special enrollment rules for the enrollment of individuals in medicare choice plans that are union or association-sponsored health plans described in section 1895A(b)(2).

"(c) SOLE PAYMENTS.—Subject to subsections (d)(2) and (e) of section 1895H, payments under a contract to a medicare choice plan under section 1895O and for rebates under section 1895N(b) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable under the traditional medicare program for items or services furnished to individuals enrolled with the plan under this section.

"Subpart 3—Medicare Choice Plan Requirements

"SEC. 1895G. AVAILABILITY AND ENROLLMENT.

"(a) GENERAL AVAILABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each medicare choice plan sponsor shall provide that each medicare choice eligible individual shall be eligible to enroll under this part in a medicare choice plan of the sponsor during an enrollment period applicable to such individual if the plan's medicare service area includes the geographic area in which the individual resides.

"(2) EXCEPTIONS.—

"(A) ACCEPTANCE TO LIMITS OF CAPACITY.—Each medicare choice plan sponsor shall provide that, at any time during which enrollments are accepted, the plan sponsor will accept medicare choice eligible individuals in the order in which they apply for enrollment up to the limits of the medicare choice plan's capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations. The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the medicare service area of the plan.

"(B) UNION, TAFT-HARTLEY, OR ASSOCIATION HEALTH PLAN.—A medicare choice plan sponsor of a union or association plan described in section 1895A(b)(2) shall limit its enrollment to members of the sponsoring group who are entitled to all rights and privileges of any other members of the group and spouses of such members. An association plan which is sponsored by a religious fraternal benefit society may limit membership to individuals who share the same religious convictions as the society.

"(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice 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 permits payment to be made under the plan for covered items and services when obtained out-of-network by the individual.

"(b) ENROLLMENT PERIODS.—

"(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 specified by section 1837 that applies to the individual (effective as specified by section 1838), and

"(B) during the period specified by the Secretary following any termination of the enrollment of the individual in a medicare choice plan under subparagraph (B), (C), or (D) of section 1895D(b)(3).

"(c) PLAN PARTICIPATION IN ENROLLMENT PROCESS.—

"(1) IN GENERAL.—In addition to any informational materials distributed by the Secretary under section 1895C(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 differences between health care coverage available under 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 information, and shall conform to any other fair marketing and advertising standards and requirements applicable to such plans under law.

"(3) PRIOR APPROVAL BY SECRETARY.—

"(A) IN GENERAL.—No marketing materials may be distributed by a medicare choice plan sponsor to (or for the use of) individuals eligible to enroll with the plan under this part unless—

"(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 the Secretary's 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 materials under subparagraph (B) with respect to an 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 service area of the plan, and

"(2) additional health services as the Secretary may approve.

The Secretary shall approve any such additional health care services which the plan proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by medicare choice eligible individuals with the plan.

"(b) SUPPLEMENTAL BENEFITS.—Each medicare choice plan may offer optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals 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 may the average total amount of deductibles, coinsurance, and copayments charged an individual under a medicare choice plan with respect to basic benefits described in subsection (a)(1) for a year exceed the average 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).

"(3) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the average amount under paragraph (1), the Secretary may determine such amount with respect to all individuals in the medicare payment area, the State, or in the United States, eligible to enroll in such plan under this part or on the basis of other appropriate data.

"(d) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1895M(a) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to the medicare choice plan of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the medicare payment amount included in the announcement made at the beginning of such period—

"(1) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(2) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1895I(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 from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) enrollment with a medicare choice plan under this part—

"(A) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the plan,

"(B) the plan sponsor shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the plan sponsor shall nonetheless be paid the full amount otherwise payable to the plan under this part, or

"(2) termination of enrollment with a medicare choice plan under this part—

"(A) the plan sponsor 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), and

"(C) the plan sponsor shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"(f) 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 under circumstances in which payment is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under the law, plan, or policy which is the primary payer under such circumstances—

"(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(2) such 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 applicable State law as a risk-bearing entity eligible to offer 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 association plan described in section 1895A(b)(2) if such plan is exempt from such requirements under the Employee Retirement Income Security Act of 1974.

"(3) COORDINATED CARE PLANS.—Paragraph (1) shall apply to a coordinated care plan except to the extent provided in section 1895R.

"(b) ASSUMPTION OF FULL FINANCIAL RISK.—A medicare choice plan sponsor shall assume full financial risk on a prospective basis for the provision of health care services for which benefits are required to be provided under section 1895H(a)(1), except that such plan sponsor may—

"(1) obtain insurance or make other arrangements for the cost of such health care services the aggregate value of which exceeds $5,000 in any year,

"(2) 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,

"(3) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(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 Secretary determines requires solvency standards at least as stringent as the standards under subparagraph (A).

"(2) FACTORS TO CONSIDER.—In establishing standards under paragraph (1) for coordinated care plans described in section 1895A(b)(1)(B)(ii), the Secretary shall consult with interested parties and shall take into account—

"(A) a coordinated care plan sponsor's delivery system assets and its ability to provide services directly to enrollees through affiliated providers, and

"(B) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, and partnerships with other licensed entities.

The Secretary is not required to include alternative means described in subparagraph (B) in the standards but may consider such alternatives where consistent with the standards.

"(d) PAYMENTS TO THE PLAN.—

"(1) PREPAID PAYMENT.—A medicare choice plan sponsor shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to individuals 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 date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(2) SOLE PAYMENTS.—Subject to subsections (d)(2) and (e) of section 1895H, if an individual is enrolled under this part with a medicare choice plan, only the plan sponsor shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"SEC. 1895J. HEALTH PLAN STANDARDS.

"(a) IN GENERAL.—Each medicare choice plan sponsor shall meet the requirements of this section.

"(b) QUALITY ASSURANCE AND ACCREDITATION.—

"(1) INTERNAL REVIEW.—

"(A) IN GENERAL.—Each medicare choice plan sponsor must establish an ongoing quality assurance program (in accordance with regulations established by the Secretary) for health care services it provides to such individuals.

"(B) ELEMENTS OF PROGRAM.—The quality assurance program established under subparagraph (A) shall—

"(i) stress health outcomes,

"(ii) provide for the establishment of written protocols for utilization review, based on current standards of medical practice,

"(iii) provide review by physicians and other health care professionals of the process followed in the provision of such health care services,

"(iv) monitor and evaluate high-volume and high-risk services and the care of acute and chronic conditions,

"(v) evaluate the continuity and coordination of care that enrollees receive,

"(vi) have mechanisms to detect both underutilization and overutilization of services,

"(vii) after identifying areas for improvement, establish or alter practice parameters,

"(viii) take action to improve quality and assess the effectiveness of such action through systematic followup,

"(ix) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate), and

"(x) provide that the program is evaluated on an ongoing basis as to its effectiveness.

"(2) EXTERNAL REVIEW.—

"(A) IN GENERAL.—Each medicare choice plan sponsor shall, for each medicare choice plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary.

"(B) FUNCTIONS OF ORGANIZATION.—Each independent quality review and improvement organization with an agreement under subparagraph (A) shall—

"(i) provide an alternative mechanism for addressing enrollee grievances,

"(ii) review plan performance based on accepted quality performance criteria,

"(iii) promote and make plans accountable for improved plan performance,

"(iv) integrate into ongoing external quality assurance activities a new set of quality indicators and standards developed specifically for the medicare population that would be used to determine whether a plan is providing quality care and appropriate continuity and coordination of care, and

"(v) report to the Secretary on those plans that have demonstrated unwillingness or inability to improve their performance.

"(3) ACCREDITATION.—Each medicare choice plan sponsor shall be required—

"(A) to meet accreditation standards established by the Secretary, or

"(B) to be accredited by an external independent accrediting organization, recognized by the Secretary as requiring standards at least as stringent as the standards established under subparagraph (A).

"(4) ENCOUNTER DATA.—The Secretary shall create incentives for medicare choice plan sponsors to report aggregate encounter data, including data on physician visits, nursing home days, home health days, hospital inpatient days, and rehabilitation services.

"(c) ACCESS.—Each medicare choice plan sponsor shall—

"(1) make the services described in section 1895H(a) (and such other health care services as such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity,

"(2) provide for reimbursement with respect to such services which are provided to such an individual other than through the plan's providers, if—

"(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(B) it was not reasonable given the circumstances to obtain the services through the plan's providers,

"(3) provide access to appropriate providers, including credentialed specialists, for all medically necessary treatment and services, and

"(4) except as provided by the Secretary on a case-by-case basis, in the case of a coordinated care plan described in section 1895A(b)(1)(B)(ii), provide primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area.

"(d) CAPACITY.—Each medicare choice plan sponsor shall provide the Secretary with a demonstration of the plan's capacity to adequately service the plan's expected enrollment of individuals under this part.

"(e) CONSUMER PROTECTIONS.—

"(1) NONDISCRIMINATION.—Each medicare choice plan sponsor shall provide assurances to the Secretary that it will not deny enrollment to, expel, or refuse to reenroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment. A medicare choice plan sponsor may not cancel or refuse to renew a beneficiary except in the case of fraud or nonpayment of premium amounts due the plan.

"(2) GRIEVANCE PROCEDURES.—

"(A) IN GENERAL.—Each medicare choice plan sponsor shall provide meaningful procedures for hearing and resolving grievances between the plan (including any entity or individual through which the plan provides health care services) and members enrolled with the plan under this part.

"(B) HEARING REQUIREMENT.—A member enrolled with a medicare choice plan under this part who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the 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 entitled 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 entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(C) EXPEDITED REVIEW.—The Secretary 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 significant harm.

"(3) SUPPLEMENTAL COVERAGE IF PLAN TERMINATES THE CONTRACT.—Each medicare choice plan sponsor that provides items and services pursuant to a contract under this part shall provide assurances to the Secretary that in the event the contract is terminated, the sponsor shall provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of 6 months or the duration of such period.

"(f) PROMPT PAYMENT.—

"(1) IN GENERAL.—Each medicare choice plan sponsor shall provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the plan and the provider or supplier.

"(2) DIRECT PAYMENT.—In the case of a medicare choice plan sponsor which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this part under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the plan sponsor under this part to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

"(g) ADVANCE DIRECTIVES.—A contract under this part shall provide that a medicare choice plan sponsor shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items

and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"Subpart 4—Determination of Medicare Payment Amounts and Rebates

"SEC. 1895M. MEDICARE PAYMENT AMOUNTS.

"(a) IN GENERAL.—Not later than July 31 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.

"(b) CALCULATION 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 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account,

increased by the percentage increase which 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 applying subclause (III), the Secretary shall apply those indices that are used in applying (or updating) medicare payment rates for specific areas and localities.

"(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) SUCCEEDING 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) for 1998, the standardized medicare payment amount for the preceding calendar year shall be the amount which would have been determined if clause (ii) of paragraph (1)(B) had been applied by substituting '100 percent' for '50 percent'.

"(3) 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.

"(c) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

"(1) IN GENERAL.—The rate of payment under section 1895O 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 classes, if such changes will improve the determination of actuarial equivalence.

"(2) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment under section 1895O 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 (or such other area as specified by the Secretary).

"(d) GEOGRAPHICAL ADJUSTMENTS.—

"(1) ANNUAL ADJUSTMENTS.—

"(A) IN GENERAL.—Unless Congress provides otherwise, beginning with calendar years after 1999, the Secretary shall, based on the analysis under paragraph (2) and to the extent the Secretary determines necessary, make annual differential adjustments to the standardized medicare payment amounts determined under subsection (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 amounts under subsection (b) in a manner that ensures that total payments under this section for a year are not greater or less than total payments under this section would have been but for the application of subparagraph (A).

"(2) ANALYSIS.—The Secretary, in consultation with interested parties, shall conduct an analysis of the measurable input cost differences across medicare payment areas, including wage differentials, and other measurable variables identified by the Secretary. The Secretary shall also determine the degree to which medicare beneficiaries, including beneficiaries in rural and underserved areas, have access to more health plan choices by calendar year 2000 under this part, and the extent to which standardized medicare payment amounts have limited or enhanced such choices.

"(3) 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 that the Secretary intends to implement under paragraph (1) for calendar years 2000 and 2001.

"(e) NOTICE IN CHANGES TO BENEFIT ASSUMPTIONS.—

"(1) IN GENERAL.—At least 45 days before making the announcement 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 be made in the methodology or 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.

"(2) EXPLANATION.—In each announcement made under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that medicare choice plans can compute medicare payment rates under subsection (d) for classes of individuals located in each medicare payment area which is in whole or in part within the medicare service area of such a plan.

"(f) DEMONSTRATION PROJECT ON MARKET-BASED REIMBURSEMENT AND COMPETITIVE PRICING.—The Secretary shall establish 1 or more demonstration projects to determine the standardized medicare payment amounts described in subsection (b) through competitive bidding by medicare choice plans in a medicare payment area. Not later than December 31, 2001, the Secretary shall submit a report to the Congress on the success of such projects in determining standardized medicare payment amounts that are reflective of market price.

"SEC. 1895N. PREMIUMS AND REBATES.

"(a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(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, the amount of the monthly premium 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) UNIFORM PREMIUM.—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) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each medicare choice plan sponsor shall permit the payment of monthly premiums on a monthly basis.

"(b) REBATES.—

"(1) IN GENERAL.—If the standardized medicare payment amount for the medicare payment area in which an individual resides exceeds the amount of the monthly premium for the plan in which the individual is enrolled (as submitted under subsection (a)(1)), the Secretary shall—

"(A) in the case of an individual—

"(i) who is enrolled in a high deductible health plan described in section 1895A(b)(1)(B)(iii), deposit 100 percent of such excess in the medicare choice account specified by the individual, or

"(ii) who is not so enrolled but who elects the application of this clause, deposit 100 percent of such excess in the medicare choice account specified by the individual; or

"(B)(i) pay to the medicare choice plan sponsor on behalf of such individual the monthly amount equal to 100 percent of such excess up to the amount of the premium amount of such individual for supplemental benefits described in section 1895H(b).

"(ii) pay to such individual an amount equal to 75 percent of the remainder of such excess, and

"(iii) deposit the remainder of such excess in the Federal Hospital Insurance Trust Fund.

"(2) TIME FOR PAYMENT.—

"(A) IN GENERAL.—A rebate under paragraph (1)(B)(ii) shall be paid as of the close of the calendar year to which the enrollment applied.

"(B) DEPOSITS IN MEDICARE CHOICE ACCOUNTS.—Deposits described in paragraph (1)(A) shall be made on a monthly basis.

"(C) OTHER PAYMENTS AND DEPOSITS.—Payments and deposits described in subparagraphs (B)(i) and (iii) shall be made on a monthly basis.

"(3) SOURCE OF REBATES.—Deposits and payments described in paragraph (1) shall be made in the same manner as payments are made under section 1895O(b).

"SEC. 1895O. PAYMENTS TO PLAN SPONSORS.

"(a) MONTHLY PAYMENTS.—

"(1) IN GENERAL.—For each individual enrolled with a plan under this part, the Secretary shall make monthly payments in advance to the medicare choice plan sponsor of the medicare choice plan with which the individual is enrolled in an amount equal to the medicare payment rate determined with respect to such individual under section 1895M(c).

"(2) RETROACTIVE ADJUSTMENTS.—The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(b) PAYMENTS FROM TRUST FUNDS.—The payment to a medicare choice plan sponsor under this section for a medicare-eligible individual shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under parts A and B are representative of the actuarial value of the total benefits under this part.

"Subpart 5—Contractual Authority; Temporary Certification; Regulations

"SEC. 1895P. GENERAL PERMISSION TO CONTRACT.

"The Secretary shall enter into a contract with any medicare choice plan sponsor in a medicare payment area if the requirements of this part are met with respect to the medicare choice plan and the plan sponsor.

"SEC. 1895Q. RENEWAL AND TERMINATION OF CONTRACT.

"(a) IN GENERAL.—Except as provided in subsection (b), each contract under this part may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(b) TERMINATION FOR CAUSE.—

"(1) IN GENERAL.—In accordance with procedures established under paragraph (2), the Secretary may terminate any contact with a medicare choice plan sponsor at any time or may impose the intermediate sanctions described in paragraph (2) or (3) or subsection (f) (whichever is applicable) on the plan sponsor, if the Secretary finds that the plan sponsor—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this part, or

"(C) no longer substantially meets the applicable conditions of this part.

"(2) PROCEDURES.—The Secretary may terminate a contract with a medicare choice plan sponsor under this part or may impose the intermediate sanctions described in subsection (f)(3) on the plan in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the medicare choice plan sponsor with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the medicare choice plan sponsor fails to develop or implement such a corrective action plan,

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether a plan sponsor has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the plan sponsor's attention,

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions, and

"(D) the Secretary provides the plan sponsor with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

"(c) TERMS OF CONTRACT.—Each contract under this part—

"(1) 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 plan sponsor when there is reasonable evidence of some need for such inspection,

"(B) shall have the right to audit and inspect any books and records of the plan sponsor that pertain—

"(i) to the ability of the plan sponsor to bear the risk of potential financial losses, and

"(ii) shall require the plan sponsor with a contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this part with the plan sponsor,

"(C)(i) except as provided by the Secretary, shall require the plan sponsor to comply with requirements similar to the requirements of subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and section 1301(c)(8) of such Act (relating to liability arrangements to protect members),

"(ii) shall require the plan sponsor to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section, and

"(iii) shall require the plan sponsor to notify the Secretary of loans and other special financial arrangements which are made between the plan sponsor and subcontractors, affiliates, and related parties, and

"(D) shall contain such other terms and conditions not inconsistent with this part (including requiring the plan sponsor to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(d) 5-YEAR LOCKOUT.—The Secretary may not enter into a contract under this part with a medicare choice plan sponsor if a previous contract with that plan sponsor under this part was terminated at the request of the plan sponsor within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(e) APPLICATION OF OTHER FEDERAL LAWS.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(f) REMEDIES FOR FAILURE TO COMPLY.—

"(1) FAILURE OF PLAN SPONSOR TO COMPLY WITH CONTRACT.—If the Secretary determines that a medicare choice plan sponsor—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, and the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual,

"(B) imposes cost sharing on individuals enrolled under this part in excess of the cost sharing permitted,

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part,

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the plan whose medical condition or history indicates a need for substantial future medical services,

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this section, or

"(ii) to an individual or to any other entity under this section,

"(F) fails to comply with the requirements of section 1895J(f), or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services,

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination

under paragraph (1)(B), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved.

"(B) suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the plan sponsor under this section for individuals enrolled after the date the Secretary notifies the plan sponsor of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) INTERMEDIATE SANCTIONS.—In the case of a medicare choice plan sponsor for which the Secretary makes a determination under subsection (b)(1) 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 subsection (b)(1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the plan's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (b)(2) during which the deficiency that is the basis of a determination under subsection (b)(1) exists.

"(C) Suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determination under subsection (b)(1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEEDINGS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (2)(A) or (3)(A) in the same manner as they apply to a civil money penalty 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 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 ENTRY.—A State's licensing standards and review process shall not be treated as unreasonable barriers to market entry under paragraph (1) if—

"(A) they are applied consistently to all coordinated care medicare choice plan applications,

"(B) are not directly in conflict, or inconsistent with, the Federal standards.

"(b) FEDERAL CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—The Secretary shall establish a process for certification of a coordinated care plan and its sponsor as meeting the requirements of this part in cases described in subsection (a)(1).

"(2) 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 be an unreasonable barrier to market entry under subsection (a)(1)(B), and

"(D) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

"(3) EFFECT OF CERTIFICATIONS.—

"(A) IN GENERAL.—A certificate under this section shall be issued for not 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.

"(c) REPORT.—Not later than December 31, 1998, the Secretary shall report to Congress on the temporary Federal certification system under subsection (b), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that coordinated care plan sponsors provide services directly to enrollees through affiliated providers.

"(d) COORDINATED CARE PLAN.—In this section, the term 'coordinated care plan' means a plan described in section 1895A(b)(1)(B)(ii).

"(e) TRANSITION RULE FOR CERTAIN RISK CONTRACTORS.—A medicare choice plan sponsor that is an eligible organization (as defined in section 1876(b)) and that—

"(1) has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this part, or

"(2) has an application for such a contract filed before such date and the contract is entered into before July 1, 1996,

shall be treated as meeting the Federal standards in effect under this section for any contract year beginning before January 1, 2000.

"(f) PARTIAL CAPITATION DEMONSTRATION.—The Secretary shall conduct a demonstration on alternative partial risk-sharing arrangements between the Secretary and health care providers. The Secretary shall report to Congress no later than December 31, 1998, on the administrative feasibility of such partial capitation methods and the information necessary to implement such arrangements.

"SEC. 1895S. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall establish such regulations as may be necessary to carry out the purposes of this part, including regulations setting forth the requirements to meet all quality, access, and solvency standards specified in sections 1895I and 1895J.

"(b) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the provisions of this part in a timely manner, the Secretary may, within 120 days after the date of the enactment of this part, promulgate regulations described in subsection (a) that take effect on an interim basis, after notice and opportunity for public comment.".

(b) COORDINATION WITH FEHBP.—Notwithstanding any provision of part D of title XVIII of the Social Security Act (as added by subsection (a)), individuals who are enrolled in a health benefit plan under chapter 89 of title 5, United States Code, shall not be eligible to enroll in high deductible medicare choice plans described in section 1895A(b)(1)(B)(iii) of such Act until such time as the Director of the Office of Management and Budget certifies to the Secretary of Health and Human Services that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(2) OTHER AMENDMENTS.—(A) Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(i) in the matter preceding clause (i), by inserting "or medicare choice plan under part D" after "eligible organization", and

(ii) in clause (i), by inserting "or under a contract under part D," after "1972,".

(B) Section 1882(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended in the first sentence by inserting ", or under a medicare choice plan under part D" before the end period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts effective on and after January 1, 1997.

SEC. 7002. TREATMENT OF 1876 ORGANIZATIONS.

(a) TERMINATION OF 1876 RISK-SHARING ORGANIZATIONS.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (2), this section shall not apply to risk-sharing contracts effective for contract years beginning on or after January 1, 1997.

"(2) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1996, may continue enrollment in such organization. Not later then July 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.".

(b) HMO LIMITS LIFTED.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) Effective January 1, 1997, if a member certifies that a medicare choice account has been established for the benefit of such member, a health maintenance organization may reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medicare choice account' has the meaning given such term by section 7705 of the Internal Revenue Code of 1986.".

SEC. 7003. SPECIAL RULE FOR CALCULATION OF PAYMENT RATES FOR 1996.

(a) IN GENERAL.—Notwithstanding any other provision of law, the per capita rate under section 1876 of the Social Security Act for 1996 for any class for a geographic area shall be equal to the sum of—

(1) 75 percent of the updated per capita rate for such class for such area, and

(2) 25 percent of the weighted average of the updated per capita rates for such class for all geographic areas, adjusted in the same manner as under section 1895M(b)(1)(C)(i) of the Social Security Act (as added by section 7001 of this Act) to reflect differences in input prices in the geographic area as compared to the national average input prices.

In no event shall any average per capita rate in a geographic area determined under the preceding sentence be less than such rate determined under section 1876 of such Act for 1995.

(b) UPDATED PER CAPITA RATES.—For purposes of subsection (a), the updated per capita rate for any class is the per capita rate of payment for 1995 determined under section 1876(a)(1)(C) of the Social Security Act for a county (or equivalent area), increased by the

percentage increase which the Secretary estimates will occur in medicare expenditures per capita for 1996 over medicare expenditures per capita for 1995.

(c) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than 30 days after the date of the enactment of this Act.

Subchapter B—Tax Provisions Relating to Medicare Choice Plans

SEC. 7006. 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 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. 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 1895N(b)(1) 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 1895N(b) of the Social Security Act, or

"(B) the payment of the individual's premium for supplemental benefits described in section 1895H(b) of such Act or such a rebate.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MEDICARE CHOICE ACCOUNT.—The term 'medicare choice account' means a trust created or organized in the United States exclusively for the purpose of paying qualified medical expenses, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1895N(b)(1) of the Social Security Act.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account beneficiary, amounts paid by such beneficiary—

"(i) for medical care (as defined in section 213(d)) for—

"(I) the account beneficiary, or

"(II) the spouse of the account beneficiary if the spouse is entitled to benefits under part A of title XVIII of the Social Security Act and enrolled under part B of such title.

but only to the extent such amounts are not compensated for by insurance or otherwise, or

"(ii) for qualified long-term care services for the account beneficiary or such spouse.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A) shall not apply to any payment for insurance other than insurance providing coverage for qualified long-term care services.

"(C) QUALIFIED LONG-TERM CARE SERVICES.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, rehabilitative, and maintenance (including personal care) services which are required by an individual during any period during which such individual is a functionally impaired individual (as determined in the manner prescribed by the Secretary).

"(3) ACCOUNT BENEFICIARY.—

"(A) IN GENERAL.—The term 'account beneficiary' means the individual on whose behalf the medicare choice account is maintained.

"(B) JOINT ACCOUNTS.—If married individuals are both enrolled in a medicare choice plan, they may establish a joint account and each spouse shall be treated as an account beneficiary.

"(4) MEDICARE CHOICE PLAN.—The term 'medicare choice plan' has the meaning given such term by section 1895A(a) of the Social Security Act.

"(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medicare choice account is exempt from taxation under this subtitle unless such account has ceased to be a medicare choice account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medicare choice accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—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 not be includible in gross income. Any amount paid or distributed out of a medicare choice account to an account beneficiary which is not used exclusively to pay qualified medical expenses shall be included in the gross income of the account beneficiary.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on an account beneficiary for any taxable year in which there is a payment or distribution to the account beneficiary from a medicare choice account which is not used exclusively to pay the qualified medical expenses shall be increased by 10 percent of the amount of such payment or distribution.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account beneficiary—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medicare choice accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay qualified medical expenses during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a medicare choice account to the Secretary of Health and Human Services of an erroneous contribution to such account and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a medicare choice account of an account beneficiary to another medicare choice account of such account beneficiary.

"(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a medicare choice account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT BENEFICIARY.—

"(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

"(A) IN GENERAL.—In the case of an account beneficiary's interest in a medicare choice account which is payable to (or for the benefit of) such beneficiary's spouse upon the death of such beneficiary, such account shall be treated as a medicare choice account of such spouse as of the date of such death.

"(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such account, other than payments attributable to periods before such date, and

"(ii) in applying subsection (b)(2) with respect to such account, references to the account beneficiary shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse.

"(2) 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 the death of such beneficiary—

"(A) such account shall cease to be a medicare choice account as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such beneficiary, in such 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 last taxable year of such beneficiary.

"(f) REPORTS.—

"(1) IN GENERAL.—The trustee of a medicare choice account shall make such reports regarding such account to the Secretary and 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 matters,

as the Secretary may require by regulations.

"(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—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations.".

(b) EXCLUSION OF MEDICARE CHOICE ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICARE CHOICE ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medicare choice account (as defined in section 137(b)) included in the gross estate.".

(c) TAX ON PROHIBITED TRANSACTIONS.—

(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:

"(5) 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 would 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 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medicare choice account described in section 137(b), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.".

(d) FAILURE TO PROVIDE REPORTS ON MEDICARE CHOICE ACCOUNTS.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 137(f) (relating to medicare choice accounts).".

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.".

(e) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) of such Code (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medicare choice account (as defined in section 137(b)).".

(f) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. Medicare choice accounts.
"Sec. 138. Cross references to other Acts.".

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions.".

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. Medicare choice accounts.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 7007. CERTAIN REBATES INCLUDED IN GROSS INCOME.

(a) IN GENERAL.—Section 61(a) of the Internal Revenue Code of 1986 (defining gross income) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by adding at the end the following new paragraph:

"(16) Payments under section 1895N(b)(1)(B)(ii) of the Social Security Act.".

(b) EFFECTIVE DATE.—The amendment 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)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following new subclauses:

"(XI) for fiscal years 1996 through 2002 for hospitals in all areas, the greater of—

"(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

"(XII) for fiscal year 2003 and each subsequent fiscal year 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) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "1997" and inserting "1995", and

(ii) by striking "and" at the end,

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V), the following subclause:

"(VI) for fiscal years 1996 through 2002—

"(aa) the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)),

"(bb) in the case of a hospital for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, or

"(cc) in the case of a hospital for which 150 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, 0 percent,

except that the applicable percentage increase determined under item (aa) or (bb) may not be less than 1.4 percent for fiscal year 1996, 1.3 percent for fiscal year 1997, and 1.1 percent for fiscal years 1998 through 2002, and".

(2) DEFINITIONS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI)—

"(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and

"(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 (if any) the hospital's update adjustment percentage for the fiscal year is less than 10 percentage points.".

(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking "paragraph (3)(B)(ii)(V)" and inserting "subclause (V) or (VI) of paragraph (3)(B)(ii)".

(b) TARGET AMOUNTS FOR NEW REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by inserting "(i)" after "(3)(A)"; and

(3) by adding at the end the following new clauses:

"(ii) 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 determined under this paragraph for all rehabilitation hospitals (and units thereof) for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) 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.

"(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)(9)(A)) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital 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 paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) which first receives payment under this section as a hospital described in subclause (I) on or after October 1, 1995, such target amount may not be greater than 130 percent of such national mean of the target amounts for such hospitals 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 (iii)(II) based on case-mix and DRG category.".

(c) DEVELOPMENT NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, appropriate providers of services, health plans, and other experts, shall develop a proposal to replace the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program with a prospective payment system.

(2) DEVELOPMENT OF SYSTEM FOR REHABILITATION AND LONG TERM CARE HOSPITALS.—

(A) IN GENERAL.—Not later then June 1, 1996, the Secretary of Health and Human Services shall submit a report to the Congress providing

recommendations on a prospective payment system for rehabilitation hospitals (and units thereof) and hospitals which have an average inpatient length of stay of greater than 25 days.

(B) MATTERS INCLUDED.—The report submitted under subparagraph (A) shall include—

(i) the available and preferred systems of classifying rehabilitation patients relative to duration and intensity of inpatient services;

(ii) the means of calculating medicare program payments to reflect such patient requirements;

(iii) other adjustments deemed appropriate such as geographic variations in wages and other costs and outliers;

(iv) a schedule upon which it is deemed feasible to introduce a prospective payment system for such providers and whether any such system should be applied to other types of providers of rehabilitation services; and

(v) any other matters the Secretary determines are relevant including recommendations for other types of hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act).

(d) CAPITAL PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 7013. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) IN GENERAL.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Balanced Budget Reconciliation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of such Act).".

(b) BUDGET NEUTRALITY ADJUSTMENT.—

(1) IN GENERAL.—The second sentence of section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(A) by striking "fiscal years 1992 through 1995" and inserting "fiscal years 1996 through 2002"; and

(B) by striking "10 percent" and inserting "15 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply on and after October 1, 1995.

(c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

"(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

"(I) is a hospital that may otherwise receive payments under this subsection,

"(II) is not a public hospital, and

"(III) incurs capital-related tax costs for the fiscal year.

"(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first 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.

"(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, 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 such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Balanced Budget Reconciliation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

"(v) For purposes of this subparagraph, capital-related tax costs include—

"(I) the costs of taxes on land and depreciable assets owned by a hospital and used for patient care,

"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

"(III) the costs of taxes paid by a hospital as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease). In determining the adjustment required under clause (i), the Secretary shall not 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 similar commercial properties.

"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.".

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

(B) by inserting after subparagraph (C) the following subparagraph:

"(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 80 percent.

"(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in 42 CFR 412.348(g)(8)(ii), shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.".

(2) LIMIT TO ADDITIONAL PAYMENTS.—The amendment made by subsection (a) shall not result in aggregate additional payments under the special exception process described in section 1886(b)(1)(D) for fiscal years 1996 through 2000 in excess of an amount equal to the sum of $50,000,000 per year more than would have been paid in such fiscal years if such amendment had not been enacted.

(3) CONFORMING AMENDMENT.—Section 1886(g)(1)(B) (42 U.S.C. 1395ww(g)(1)(B)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (D)".

SEC. 7014. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended—

(1) by striking "The" and inserting "Subject to clause (ix), the";

(2) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(3) by inserting "(I)" after "(ii)";

(4) by inserting "the applicable percentage determined under subclause (II) of the amount" after "discharge shall be";

(5) by adding at the end the following new subclause:

"(II) For purposes of subclause (I), the applicable percentage for discharges occurring during a fiscal year is 95 percent in fiscal year 1996, 90 percent in fiscal year 1997, 85 percent in fiscal year 1998, 80 percent in fiscal year 1999, and 75 percent in fiscal years 2000, 2001, and 2002."; and

(6) by adding at the end the following new clause:

"(ix) With respect to discharges occurring on or after October 1, 1995, the Secretary shall adjust the additional payment amounts provided in accordance with this subparagraph for each discharge such that the total amount of such additional payment amounts for discharges occurring over the 7-year period beginning on October 1, 1995, does not exceed an average 5 percent of the sum of the total estimated payments under this subsection over such 7-year period (other than payments under subparagraph (B) or this subparagraph).".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking "1990" and inserting ", 1990, and the modifications made to such paragraph by section 7014(a) of the Balanced Budget Reconciliation Act of 1995.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1995.

SEC. 7015. INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r)

to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89;

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

"(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.48;

"(IV) October 1, 1997, and before October 1, 1998, 'c' is equal to 1.33; and

"(V) October 1, 1998, and before October 1, 2002, 'c' is equal to 1.23.".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 7015(a) of the Balanced Budget Reconciliation Act of 1995".

SEC. 7016. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

"(1) IN GENERAL.—For discharges occurring on or after January 1, 1997, a subsection (d) hospital shall receive payment for each discharge of an individual enrolled under part D with a medicare choice plan in an amount equal to the applicable percentage of the amount that the hospital would have received for such discharge under subsections (d)(5)(B), (relating to indirect medical education), (d)(5)(F) (relating to disproportionate share), and (h) (relating to direct graduate medical education), if such individual was enrolled in the traditional medicare program (as defined in section 1895A(c)(3)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) for calendar year 1997, 50 percent; and

"(B) for calendar years after 1997, 100 percent.".

SEC. 7017. PAYMENTS FOR HOSPICE SERVICES.

Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV), (V), and (VI), and inserting the following subclauses:

"(IV) for each of fiscal years 1996 through 2002, the greater of—

"(aa) the market basket percentage increase for the fiscal year minus 2.5 percentage points, or

"(bb) 1.1 percent (1.3 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 INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1995.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1996, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendments made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1996, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1996.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2).".

(3) Section 218 (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1995.

SEC. 7019. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN OTHER CONDITIONS.

Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)) is amended, in the matter preceding item (a), by striking "by or in a skilled nursing facility" and inserting "by a skilled nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

Subchapter B—Payments to Skilled Nursing Facilities

PART I—PROSPECTIVE PAYMENT SYSTEM

SEC. 7025. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

PART II—INTERIM PAYMENT SYSTEM

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

"(A) the per stay amount applicable to the facility under subsection (d) for the period; and

"(B) the number of stays beginning during the period for which payment was made to the facility for such services.

"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

"(1) AMOUNT FOR FISCAL YEAR 1996.—

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the greater of—

"(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(B) 1.2 percent (1.1 percent for fiscal years after 1997).

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

"(1) the sum of—

"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

"(2) the average number of days per stay for all residents of the skilled nursing facility.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—The Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(i) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 7031, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(T) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

"(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REVISED SALARY EQUIVALENCE LIMITS.

The Secretary of Health and Human Services shall determine the non-routine per stay payment amounts for each skilled nursing facility established under section 1888A of the Social Security Act, as added by section 7032, as if salary equivalence guidelines were in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7025) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 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 PART B

SEC. 7041. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) Section 1848(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended to read as follows:

"(2) RECOMMENDATION OF UPDATE.—

"(A) IN GENERAL.—Not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that includes a recommendation on the appropriate update in the conversion factor for all physicians' services (as defined in subsection (f)(3)(A)) in the following year. In making the recommendation, the Secretary shall consider—

"(i) the percentage change in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for that year;

"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and

"(iii) access to services.

"(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Secretary may also consider—

"(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;

"(iv) any other relevant factors not measured in the resource-based payment methodology; and

"(v) changes in volume or intensity of services.

"(C) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the report submitted under subparagraph (A) in a 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:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(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), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year,

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 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

"(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.".

(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(f) (42 U.S.C. 1395w-4(f)) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) 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—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than private plan enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than private plan enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of inappropriate utilization of services,

"(vi) evidence of lack of access to necessary physicians' services, and

"(vii) 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 cause to have the sustainable growth rate published in the Federal Register, in the last 15 days of October of each calendar year (beginning with 1997), for the fiscal year beginning in that year. The Secretary shall cause to have published in the Federal Register, by not later than January 1, 1997, the paragraph (2) for fiscal year 1997.

"(2) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Balanced Budget Reconciliation Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a 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 1876.".

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.".

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(C)(ii);

(B) in subsection (d)(1)(A), by striking "or updates";

(C) in subsection (d)(1)(C)(ii), by striking "(or updates)"; and

(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 7042. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(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 the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 7043. PAYMENTS FOR CLINICAL LABORATORY DIAGNOSTIC SERVICES.

(a) FREEZE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 13951(h)(2)(A)(ii)(IV)) is amended by striking "and 1995" and inserting "through 2002".

(b) REDUCTION OF NATIONAL CAPS.—Section 1833(h)(4)(B) (42 U.S.C. 13951(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (vi);

(2) in clause (vii)—

(A) by inserting "and before January 1, 1997." after "December 31, 1995."; and

(B) by striking the period and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1996, is equal to 65 percent of such median.".

(c) STUDY AND REPORT TO CONGRESS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of—

(A) the fee schedule determined under section 1833(h)(1) of the Social Security Act (42 U.S.C. 13951(h)(1)) relating to clinical laboratory services; and

(B) options for rebasing or otherwise revising the amounts payable for such services under such fee schedule, taking into account the amounts paid for such services by other large volume purchasers.

(2) REPORT.—Not later then 1 year after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 7044. DURABLE MEDICAL EQUIPMENT.

(a) FREEZE IN UPDATES.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A), the following subparagraph:

"(B) for 1996 through 2002, the percentage increase is 0 percent; and".

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5)(A) (42 U.S.C. 1395m(a)(5)(A)) is amended to read as follows:

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (E), payment for—

"(i) oxygen shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen; and

"(ii) oxygen equipment (other than portable oxygen equipment) shall be made on a monthly basis in an amount equal to 60 percent of the monthly payment amount recognized under paragraph (9) for oxygen equipment.".

(2) PORTABLE OXYGEN EQUIPMENT.—Section 1834(a)(5)(B) (42 U.S.C. 1395m(a)(5)(B)) is amended by inserting "60 percent of" after "increased by".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 1996.

(c) UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

SEC. 7045. UPDATES FOR ORTHOTICS AND PROSTHETICS.

(a) IN GENERAL.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) EXTENSION OF FREEZE ON PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995 (as such charges were determined in accordance with section 13541 of OBRA—1993).

SEC. 7046. PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ", and by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1992 through 1998" and inserting "by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1992 through 1995, and by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7047. PAYMENTS FOR NON-CAPITAL COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 7048. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 13951(i)(2)(C)) is amended—

(1) by striking "1996" and inserting "2003"; and

(2) by inserting before the first sentence the following new sentence: "Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), the Secretary shall not update amounts established under such subparagraphs for fiscal years 1996 through 2002."

SEC. 7049. PAYMENTS FOR AMBULANCE SERVICES.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by sections 7034 and 7035(b), is amended by adding at the end the following new subparagraph:

"(V) In determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary shall not recognize anycosts in excess of costs recognized as reasonable for fiscal year 1995.".

SEC. 7050. PHYSICIAN SUPERVISION OF NURSE ANESTHETISTS.

(a) PROMULGATION OF REVISED REGULATIONS.—The Secretary of Health and Human Services shall revise any regulations describing the conditions under which payment may be made for anesthesia services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to provide that payment may be made under the medicare program for anesthesia services furnished in a hospital or an ambulatory surgical center by a certified registered nurse anesthetist who, under the law of the State in which the service is furnished, is permitted to administer anesthesia services without supervision by the physician performing the operation or the anesthesiologist.

(b) EFFECTIVE DATE.—The revisions to the regulations referred to in subsection (a) shall apply with respect to anesthesia services furnished on or after January 1, 1996.

SEC. 7051. PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 13951(b)) is amended in the first sentence by striking "and $100 for 1991 and subsequent years" and inserting ", $100 for calendar years 1991 through 1995, $150 for calendar year 1996, and for calendar years after 1996, an amount equal to the deductible amount determined under this subsection in the prior calendar year, increased by $10.00".

SEC. 7052. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "after December 1995 and prior to January 1999" and inserting "after December 2002"; and

(2) in subparagraph (B)—

(A) by striking "and" at the end of clause (iv),

(B) in clause (v), by striking the period and inserting a comma, and

(C) by adding at the end the following new clauses:

"(vi) 1996 shall be $53.00,
"(vii) 1997 shall be $57.00,
"(viii) 1998 shall be $61.00,
"(ix) 1999 shall be $66.00,
"(x) 2000 shall be $74.00,
"(xi) 2001 shall be $80.00, and
"(xii) 2002 shall be $89.00.".

SEC. 7053. INCREASE IN MEDICARE PART B PREMIUM FOR HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1839 the following new section:

"INCREASE IN PREMIUM FOR HIGH-INCOME INDIVIDUALS

"SEC. 1839A. (a) INCREASE IN PREMIUM.—

"(1) IN GENERAL.—If this section applies to an individual for any calendar year, the monthly premium otherwise applicable under section 1839 for each month during the calendar year shall be increased by an amount equal to the supplemental Medicare part B premium.

"(2) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for a calendar year if—

"(A) the individual is covered under this part for any month during the calendar year, and

"(B) the modified adjusted gross income of the taxpayer for the taxable year beginning in the calendar year exceeds the threshold amount.

"(b) PREMIUMS TO BE DEDUCTED BASED ON ESTIMATED AMOUNTS.—

"(1) IN GENERAL.—Each individual shall—

"(A) during the medicare open enrollment period under section 1895G(b)(1), or

"(B) during any other medicare enrollment period applicable to the individual under section 1895G(b)(2),

include with the medicare enrollment an estimate of the taxpayer's modified adjusted gross income for the following calendar year.

"(2) INDIVIDUALS NOT FILING ENROLLMENT FORM.—If an individual does not file a medicare enrollment form for any enrollment period applicable to the individual and the individual's coverage under this part continues without modification by reason of the failure to file, the individual's modified adjusted gross income shall be determined on the basis of the most recent information available to the Secretary from prior enrollment forms, the Secretary of the Treasury under section 6103(l)(15), or otherwise.

"(3) INDIVIDUALS FILING INCORRECT ENROLLMENT FORMS.—If, on the basis of information obtained from the Secretary of the Treasury under section 6103(l)(15), the Secretary determines that the information included with a medicare enrollment form under paragraph (1) is incorrect, the individual's modified adjusted gross income shall be determined on the basis of the information obtained from the Secretary of the Treasury.

"(4) TRANSFER OF INFORMATION.—The Secretary shall notify the applicable agency under section 1840 of—

"(A) the estimates received under paragraph (1) or the determinations under paragraph (2) or (3), and

"(B) the amount of the premiums to be deducted under section 1840.

The premiums under subparagraph (B) shall be effective with respect to months beginning with the later of the month for which the enrollment is effective or the month following the month in which the notice is received. Such premium shall remain in effect until another premium takes effect under this subsection or there is an increase in the premium determined without regard to this section.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—For purposes of subsection (a)—

"(1) IN GENERAL.—The supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) for such month, over

"(B) the total monthly premium under section 1839 (determined without regard to subsections (b) and (f) of section 1839).

"(2) PHASEIN OF SUPPLEMENTAL PREMIUM.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the supplemental Medicare part B premium under this section for months in the calendar year in which the taxable year begins shall be an amount which bears the same ratio to the amount of the premium (without regard to this paragraph) as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(B) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return under section 6013 of the Internal Revenue Code of 1986, subparagraph (A) shall be applied by substituting '$75,000' for '$50,000' each place it appears.

"(d) VERIFICATION AND ADJUSTMENTS OF SUPPLEMENTAL PREMIUMS.—

"(1) VERIFICATION.—Each individual to whom this section applies shall, on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year, determine the difference (if any) between—

"(A) the aggregate supplemental Medicare part B premiums imposed by this section for months during the calendar year in which the taxable year begins, and

"(B) the aggregate amount of premiums deducted and paid under section 1840 for such months with respect to the individual.

Such determination shall be included on a form prescribed by the Secretary and the form shall be submitted to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) DEFICIENCY ADJUSTMENTS.—

"(A) IN GENERAL.—If the amount under paragraph (1)(A) exceeds the amount under paragraph (1)(B), the individual shall include with the form required to be filed under paragraph (1) a separate check made payable to the Secretary in an amount equal to such excess plus interest determined under subparagraph (B).

"(B) INTEREST ON UNDERPAYMENTS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The amount of interest taken into account shall be the sum of the amounts determined under clause (ii) for each of the months in the taxable year.

"(ii) MONTHLY INTEREST.—Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 to any portion of the underpayment for the period beginning on the first day of the following month and ending on the date the portion is paid. For purposes of this clause, payments shall be applied to months in order, beginning with the earliest.

"(iii) SAFE-HARBOR EXCEPTION.—No interest shall be imposed for any month if the individual's estimate of modified adjusted gross income under subsection (b) on which the supplemental Medicare part B premium for the month was based was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of such Code for the taxable year ending with or within the calendar year preceding the calendar year in which the estimate was made.

"(3) OVERPAYMENT ADJUSTMENTS.—If the amount under paragraph (1)(B) exceeds the amount under paragraph (1)(A), the Secretary shall, at the Secretary's discretion—

"(A) credit such excess against any supplemental premium required under this section, or

"(B) make a payment to the individual in the amount of such excess.

"(4) ADJUSTMENTS BY SECRETARY.—If the Secretary determines, on the basis of information received from the Secretary of the Treasury under section 6103(l)(15), that there was an underpayment or overpayment of the aggregate supplemental Medicare part B premiums for months during any taxable year (after any other adjustment under this subsection), the Secretary shall—

"(A) notify the individual of such underpayment or overpayment,

"(B) in the case of an underpayment, give such individual an opportunity for a hearing with respect to such underpayment and a reasonable time for payment of such underpayment and interest determined under paragraph (2)(B), and

"(C)(i) collect the amount of any underpayment and interest not paid under subparagraph (B) in such manner as the Secretary may prescribe, and

"(ii) take the actions described in paragraph (3) with respect to any overpayment.

"(5) TRANSFERS TO TRUST FUND.—Amounts equal to amounts paid under paragraphs (2)(A), (4)(B), and (4)(C)(i) shall be deposited into the Federal Supplementary Medical Insurance Trust Fund.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000,

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined under section 62 of the Internal Revenue Code of 1986—

"(A) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return under section 6013 of such Code, this section shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703 of such Code.

"(5) AGREEMENTS.—In order to promote the efficient administration of this section, the Secretary may enter into agreements with the Commissioner of the Social Security Administration or the head of any other appropriate Federal agency under which such agency performs administrative responsibilities under this section.".

(b) DISCLOSURE OF INFORMATION.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF TAXPAYER RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF COLLECTING SUPPLEMENTAL PART B PREMIUMS.—

"(A) IN GENERAL.—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 (12)(E)(i)) identified in the request whether or not (and the amount by which) the individual's modified adjusted gross income for any taxable year specified in the request exceeded the threshold amount.

"(B) RESTRICTION ON USE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services (or of any other Federal agency if an agreement under section 1839A(e)(5) of the Social Security Act is in effect) only for the purposes of, and to the extent necessary in, establishing an individual's correct supplemental Medicare part B premium under section 1839A of the such Act.

"(C) DEFINITIONS.—For purposes of this paragraph, any term used which is also used in section 1839A of the Social Security Act shall have the meaning given such term by such section.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1839(a) (42 U.S.C. 1395r(a)(2)) is amended by inserting "or section 1839A" after "subsections (b) and (e)".

(2) Paragraph (3) of section 1839(a) (42 U.S.C. 1395r(a)(3)) is amended by inserting "or section 1839A" after "subsection (e)".

(3) Section 1839(b) (42 U.S.C. 1395r(b)) is amended by inserting "(and as increased under section 1839A)" after "subsection (a) or (e)".

(4) Section 1839(f) (42 U.S.C. 1395r(f)) is amended by adding at the end the following new sentence: "This subsection shall not apply to the portion of the premium attributable to the supplemental premium under section 1839A.".

(5) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining the supplemental premium under section 1839A is too low and results in a portion of the premium not being deducted," before "he may".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to months after December 1996.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(15) of the Social Security Act (as added by subsection (b)) for taxable years beginning after December 31, 1993.

CHAPTER 4—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—General Provisions Relating to Parts A and B

SEC. 7055. SECONDARY PAYOR PROVISIONS.

(a) PERMANENT EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking ", and before October 1, 1998".

(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of the enactment of the Balanced Budget Reconciliation Act of 1995"; and

(2) by adding at the end the following new sentence: "Effective for items and services furnished on or after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

(c) EXTENSION OF TRANSFER OF DATA.—

(1) ELIMINATION OF SUNSET.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) ELIMINATION OF TERMINATION.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(d) NO RETROACTIVE APPLICATION OF ESRD SECONDARY PAYER INTERPRETATION.—Notwithstanding any other provision of law, the April 1995 interpretation of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) issued by the Health Care Financing Administration shall not apply retroactively to a group health plan that paid benefits primary to title XVIII of such Act (42 U.S.C. 1395 et seq.) (but would have paid benefits secondary to such title in the absence of such section) on or after August 10, 1993, and before April 24, 1995, on behalf of an individual who, during such period—

(1) was entitled to benefits under such title under subsection (a) or (b) of section 226 of such Act (42 U.S.C. 426); and

(2) subsequently became entitled or eligible for benefits under such title under section 226A of such Act (42 U.S.C. 426–1).

SEC. 7056. TREATMENT OF ASSISTED SUICIDE.

(a) PROHIBITION OF PAYMENT.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) and before the flush language at the end the following new paragraph:

"(16) where such expenses are for items and services, or to assist in the purchase in whole or in part of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of an individual.".

(b) NO REQUIREMENT THAT HEALTH CARE PROVIDERS INFORM PATIENTS CONCERNING ASSISTING SUICIDE.—Section 1866(f)(1)(A)(i) (42 U.S.C. 1395cc(f)(1)(A)(i)) is amended by striking "paragraph (3))" and inserting "paragraph (3)), except that no health care provider or employee of a health care provider be required under this section to inform or counsel a patient regarding assisted suicide, euthanasia, mercy killing, or other service which purposefully causes the death of a person".

SEC. 7057. ADMINISTRATIVE PROVISIONS.

(a) INDIAN HEALTH SERVICE FACILITIES.—Nothing in this Act shall be construed to change the status under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of—

(1) a Federally qualified health center (as defined in section 1861(aa)(4) of such Act) which is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act; or

(2) hospitals or skilled nursing facilities of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), that are eligible for payments under title XVIII of the Social Security Act, in accordance with section 1880 of such Act (42 U.S.C. 1395qq).

(b) CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.—

(1) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(2) SKILLED NURSING FACILITIES.—Section 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(3) GENERAL PROVISIONS.—

(A) UNIFORM REPORTING SYSTEMS.—Section 1122(h) (42 U.S.C. 1320a-1(h)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(B) PEER REVIEW.—Section 1162 (42 U.S.C. 1320c–11) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF 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 chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(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

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) 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 these important cancer drug treatments.

Subchapter B—Payments for Home Health Services

SEC. 7061. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Part C of title XVIII (42 U.S.C. 1395x et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) IN GENERAL.—

"(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, under any other contracting or consulting arrangement, or otherwise).

"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located.

"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the greater of—

"(i) the home health market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(ii) 1.1 percent (1.2 percent in fiscal year 1997).

"(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter, to reflect the most recent available data.

"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

"(c) PER EPISODE LIMIT.—

"(1) AGGREGATE LIMIT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each such case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) CASE-MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for—

"(I) each of fiscal years 1997 through 2000 is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year; and

"(II) each subsequent fiscal year, is the factor determined by the Secretary to necessary remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.

"(iii) REBASING OF PER EPISODE LIMITS.—Beginning with fiscal year 1999 and every 2 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF AREA.—In the case of an area which the Secretary determines has insufficient number of home health agencies to establish an appropriate per episode limit, the Secretary may establish an area other than the area used to determine the area wage under section 1886(d)(3)(E)) for purposes of establishing an appropriate per episode limit.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—For purposes of this paragraph, the term 'episode' means, with respect to a cost reporting period, the continuous 120-day period that—

"(i) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(ii) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(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 fiscal year 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 considers appropriate, reduce the payments under this section to the home health agency in the following fiscal year by the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) 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 (c)(1)(D) (if such period is not 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's certification with respect to 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 a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—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 fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost cases described in subsection (e)(3) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 30, 60, 90, 120, and 165 days into an episode described in subsection (c)(1)(D).

"(2) USING OF ORGANIZATIONS TO CONDUCT REVIEWS.—The Secretary may use public or private organizations to conduct medical reviews in accordance with this subsection.

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—

"(A) IN GENERAL.—The Secretary shall develop and implement a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the percentage distribution of low-cost episodes for which home health services are furnished by the agency over such percentage distribution determined for the agency under subparagraph (B).

"(B) DISTRIBUTION.—The Secretary shall profile each home health agency to determine the distribution of all episodes by length of stay for each agency during the agency's first 12-month cost reporting period beginning during fiscal year 1994. The Secretary shall calculate the 25th percentile distribution for each agency for low-cost episodes.

"(C) LOW-COST EPISODE.—For purposes of this paragraph, the Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—During the first 3 years in which payments are made under this section, the Prospective Payment Assessment Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) On the adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.".

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 7032(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1893".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1893(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 a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;".

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6), as amended by section 7035(a)(1), (42 U.S.C. 1395u(b)(6)) is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1893(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(F);".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 7035(a)(2)(C), is amended—

(i) by striking "or" at the end of paragraph (15);

(ii) by striking the period at the end of paragraph (16) and inserting "or"; and

(iii) 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 the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 7062. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 7063. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA—1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA—1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996.".

CHAPTER 5—RURAL AREAS

SEC. 7071. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994." and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000."; and

(B) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000.".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000.";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA-93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7072. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement

weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis:

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility: and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (d)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) TREATMENT OF RURAL PRIMARY CARE HOSPITALS.—A rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Reconciliation Act of 1995 shall receive payment under this title in the same manner and amount as critical access hospital certified by the Secretary under subsection (f) receives payment for such services.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(b) REPORT ON ALTERNATIVE TO 72-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 72-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) CONTINUATION OF MAF'S.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall extend the Montana Medical Assistance Facility Demonstration Project until December 31, 2002. The demonstration project shall provide that new medical assistance facilities may be designated and that all medical assistance facilities shall receive reasonable cost reimbursement under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for services provided to medicare beneficiaries.

(d) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a-7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b-4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals"; and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(e) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(f) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows—

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7073. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)), as amended by section 7072(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services.".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 7072(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 7074. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.

(a) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 13951(m)) is amended by striking "10 percent" and inserting "20 percent".

(b) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 13951(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(c) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 13951(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 3-year period beginning on the effective date of the withdrawal of such designation),".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) 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, 1996.

(d) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (I); and

(2) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary (on such periodic basis as the Secretary may require) on the types of providers to whom the carrier makes additional payments for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers; and".

(e) STUDY.—

(1) IN GENERAL.—The Physician Payment Review Commission shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting physicians to provide services in such areas.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate.

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall apply to physicians' services furnished on or after October 1, 1995.

SEC. 7075. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 13951(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7076. DEMONSTRATION PROJECTS TO PROMOTE TELEMEDICINE.

(a) DEFINITIONS.—For purposes of this section:

(1) RURAL HEALTH CARE PROVIDER.—The term "rural health care provider" means any public or private health care provider located in a rural area.

(2) NONHEALTH CARE ENTITY.—The term "nonhealth care entity" means any entity that is not involved in the provision of health care, including a business, educational institution, library, and prison.

(b) ESTABLISHMENT.—The Secretary, acting through the Office of Rural Health, shall award grants to eligible entities to establish demonstration projects under which an eligible entity establishes a rural-based consortium that enables members of the consortium to utilize the telecommunications network—

(1) to strengthen the delivery of health care services in the rural area through the use of telemedicine;

(2) to provide for consultations involving transmissions of detailed data about the patient that serves as a reasonable substitute for face-to-face interaction between the patient and consultant; and

(3) to make outside resources or business interaction more available to the rural area.

(c) ELIGIBLE ENTITY.—To be eligible to receive a grant under this section an applicant entity shall propose a consortium that includes as members at least—

(1) one rural health care provider; and

(2) one nonhealth care entity located in the same rural area as the rural health care provider described in paragraph (1).

The Secretary may waive the membership requirement under paragraph (2) if the members described in paragraph (1) are unable to locate a nonhealth care entity located in the same rural area to participate in the demonstration project.

(d) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity described in subsection (c) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the eligible entity would apply any amounts received under such grant, the source and amount of non-Federal funds the entity would pledge for the project, and a showing of the long-term sustainability of the project.

(e) GRANTS.—Grants under this section shall be distributed in accordance with the following requirements:

(1) GRANT LIMIT.—The Secretary may not make a grant to an eligible entity under this section in excess of $500,000 for each fiscal year in which an eligible entity conducts a project under this section.

(2) MATCHING FUNDS.—

(A) IN GENERAL.—The Secretary may not make a grant to an eligible entity under this section unless the eligible entity agrees to provide non-Federal funds in an amount equal to not less than 20 percent of the total amount to be expended by the eligible entity in any fiscal year for the purpose of conducting the project under this section.

(B) ADJUSTMENTS.—The Secretary shall make necessary adjustments to the amount that an eligible entity may receive in a subsequent fiscal year if the eligible entity does not meet the requirements of subparagraph (A) in the preceding fiscal year.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Amounts received under a grant awarded under this section shall be utilized for the development and operation of telemedicine systems that serve rural areas. All such grant funds must be used to further the provision of health services to rural areas.

(2) RULES OF USE.—

(A) PERMISSIBLE USAGES.—Grant funds awarded under this section—

(i) shall primarily be used to support the costs of establishing and operating a telemedicine system that provides specialty consultations to rural communities;

(ii) may be used to demonstrate the application of telemedicine for preceptorship of medical students, residents, and other health professions students in rural training sites;

(iii) may be used for transmission costs, salaries, maintenance of equipment, and compensation of specialists and referring practitioners;

(iv) may be used to pay the fees of consultants, but only to the extent that the total of such fees does not exceed 5 percent of the amount of the grant;

(v) may be used to demonstrate the use of telemedicine to facilitate collaboration between nonphysician primary care practitioners (including physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists) and physicians; and

(vi) may be used to test reimbursement methodologies under the medicare program under title XVIII of the Social Security Act for practitioners participating in telemedicine activities.

(B) PROHIBITED USE OF FUNDS.—Grant funds shall not be used by members of a rural-based consortium for any of the following:

(i) Expenditures to purchase or lease equipment.

(ii) In the case of a member of a consortium that is an isolated rural facility, purchase of high-cost telecommunications technologies for the furnishing of telemedicine services that—

(I) incur high cost per minute of usage charges; or

(II) require consultants to be available at the same time as the patient and the referring physician.

(iii) Purchase or installation of transmission equipment or establishment or operation of a telecommunications common carrier network.

(iv) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 20 percent of the total grant funds.

(v) Construction (except for minor renovations related to the installation of equipment), or the acquisition or building of real property.

(g) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project conducted under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(h) EVALUATIONS.—Each eligible entity that conducts a demonstration project under this section shall submit to the Secretary such information and interim evaluations as the Secretary may require.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for each of the fiscal years 1996 through 1998.

SEC. 7077. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: "The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.".

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud and Abuse Prevention Act of 1995".

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7103. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 7101, is amended by inserting after section 1128C the following new section:

"HEALTH CARE FRAUD AND ABUSE GUIDANCE

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subchapter B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 7111. 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 Health Care Fraud and Abuse Prevention 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 Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other

than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7114. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7115. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 7116. CLARIFICATION OF AND ADDITIONS TO EXCEPTIONS TO ANTI-KICKBACK PENALTIES.

(a) STUDY.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study evaluating the benefits of volume and combination discounts to the medicare program under title XVIII of the Social Security Act.

(b) CONTENTS OF STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with health care providers and manufacturers, shall specifically examine the issues associated with the discounting or other reductions in price (including reductions in price applied to combinations of items or services or both, and reductions made available as part of capitation, risk sharing, decrease management or similar programs) obtained by a provider of services or other entity under title XVIII of the Social Security Act or a State health care program (as defined in section 1128(h) of such Act).

(2) SPECIFIC EVALUATION AND IDENTIFICATION.—The Secretary shall evaluate the provision of discounts on the medicare program under title XVIII of the Social Security Act and specifically identify mechanisms to assure that the medicare program benefits from such discounts.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall report the findings of the study to the Committees on Finance and the Judiciary of the Senate and the Committees on Ways and Means, Commerce, and the Judiciary of the House of Representatives.

(d) REGULATIONS.—The Secretary shall develop regulations regarding the acceptability of such discounts based on the findings of the study described in this subsection. Such regulations shall not become effective unless such regulations are budget neutral.

SEC. 7117. EFFECTIVE DATE.

The amendments made by this subchapter shall take effect January 1, 1996.

Subchapter C—Administrative and Miscellaneous Provisions

SEC. 7121. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 7101 and 7103, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken

against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies 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 agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a provider of services as defined in section 1861(u), and any entity, including a health maintenance organization, group medical practice, or any other individual or entity listed by the Secretary in regulation, that provides health care services.

"(4) SUPPLIER.—The term 'supplier' means a supplier of health care items and services described in subsections (a) and (b) of section 1819 and section 1861.

"(5) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(6) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(7) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(j).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

SEC. 7122. ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R)) is amended by striking "section 1869(b)" and inserting "section 1869(a) or (b)".

Subchapter D—Civil Monetary Penalties

SEC. 7131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud and Abuse Prevention Act of 1995 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128

and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program:".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(e) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 7115(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(h) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program:".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

Subchapter E—Amendments to Criminal Law

SEC. 7141. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under 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 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 7142. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment 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. 7143. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 7144. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 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 covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 7146. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations of Federal health care offenses

"(a) 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 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 982(a)(6)(B) of this title.

"(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 7147. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) 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.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 7148. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7149. 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)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required 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 any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) 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.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"**§ 3486. Authorized investigative demand procedures**".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

Subchapter F—State Health Care Fraud Control Units

SEC. 7151. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 2134(b), as added by section 7191(a) of this Act, is amended—

(1) by inserting "(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 and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1))."

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 7191(a) of this Act, is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the medicaid plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

SEC. 7152. BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—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 individuals and entities who are engaging or who have engaged in acts or omissions which constitute 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 for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or 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).

(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 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.

CHAPTER 7—OTHER PROVISIONS FOR TRUST FUND SOLVENCY

SEC. 7171. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking "; or" at the end of paragraph (12);

(2) by inserting "or" at the end of paragraph (15)(B);

(3) by striking the period at the end of paragraph (16) and inserting "or"; and

(4) by adding at the end the following new paragraph:

"(17) for an overpayment to a provider or supplier made from the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund.".

SEC. 7172. TRANSFERS OF CERTAIN PART B SAVINGS TO HOSPITAL INSURANCE TRUST FUND.

Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following new subsection:

"(j) There are hereby appropriated for each fiscal year to the Federal Hospital Insurance Trust Fund amounts equal to the estimated savings to the general fund of the Treasury for such year resulting from the amendments made by sections 7051 (relating to the part B deductible), 7052 (relating to the part B premium), and 7053 (relating to the part B premium for high-income individuals) of the Balanced Budget Reconciliation Act of 1995. The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund amounts equal to such estimated savings in the form of public-debt obligations issued exclusively to the Federal Hospital Insurance Trust Fund.".

Subtitle B—Transformation of the Medicaid Program

SEC. 7190. SHORT TITLE.

This subtitle may be cited as the "Medicaid Transformation Act of 1995".

SEC. 7191. TRANSFORMATION OF MEDICAID PROGRAM.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—MEDICAID PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"SEC. 2100. 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 part E a plan (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 State amends the plan under section 2152;

"(2) the State terminates participation under this title; or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2153.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A medicaid plan shall include a description of the strategic objectives

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.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A 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 children 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 by the State for each strategic objective identified in the medicaid plan; and

"(2) the medicaid plan shall describe how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 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. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a medicaid plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the medicaid plan during the fiscal year (and during any portions of fiscal year 1996 during which the medicaid plan was in effect under this title) as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (c) of section 2112 and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the medicaid plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services specified in subsection (c)(2) which are covered under the medicaid plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the medicaid plan consistent with the reporting format specified by the Medicaid Task Force under section 2106(d)(1); and

"(ii) the total and average number of eligible individuals under the medicaid plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the medicaid plan during the year (and during any portions of fiscal year 1996 during which the medicaid plan was in effect under this title) as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the medicaid plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the medicaid plan consistent with the reporting format specified by the Medicaid Task Force under section 2106(d)(1).

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) An estimate of the percentage of expenditures to be used for plan administration.

"(D) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(E) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(7) INPATIENT HOSPITAL PAYMENTS.—With respect to inpatient hospital services provided under the medicaid plan on a fee-for-service basis, a description of the average amount paid per discharge in the fiscal year compared either to the average charge for such services or to the State's estimate of the average amount paid per discharge by commercial health insurers in the State.

"(c) SPECIAL RULES.—For purposes of this section:

"(1) IDENTIFICATION OF GENERAL CATEGORIES OF INDIVIDUALS.—Each of the following is a general category of eligible individuals:

"(A) Pregnant women.

"(B) Children.

"(C) Blind or disabled adults under retirement age.

"(D) Persons who have attained retirement age.

"(E) Other adults.

"(2) TREATMENT OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each subparagraph of section 2171(a)(1) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(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 neither responsible under State law for the submission of the State plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—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. 2104. DESCRIPTION OF PROCESS FOR MEDICAID PLAN DEVELOPMENT.

"Each medicaid plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. 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) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment;

"(B) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment; and

"(C) an opportunity for submittal and consideration of public comments on the proposed plan or amendment.

The previous sentence shall not apply to a revision of a medicaid plan (or revision of an amendment to a plan) made by a State under section 2153(c)(1) or to a plan amendment withdrawal described in section 2153(c)(4).

"(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;

"(B) where the public may inspect the proposed plan or amendment;

"(C) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy; and

"(D) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(3) AMENDMENTS DESCRIBED.—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.

"(4) PUBLICATION.—Notices under this subsection may be published (as selected by the

State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(5) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this subsection for a State if notice of the medicaid plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this subsection.

"(b) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—Each State with a medicaid plan shall establish and maintain an advisory committee.

"(2) CONSULTATION.—The State shall periodically consult with the advisory committee in the development, revision, and monitoring the performance of the medicaid plan, including—

"(A) the development of strategic objectives and performance goals under section 2101;

"(B) the annual report under section 2102; and

"(C) the research design under section 2103(c).

"(3) GEOGRAPHIC DIVERSITY.—The composition of the advisory committee shall be chosen in a manner that assures some representation on the advisory committee of the different general geographic regions of the State. Nothing in the previous sentence shall be construed as requiring proportional representation of geographic areas in a State.

"(4) CONSTRUCTION.—Nothing in this title shall be construed as preventing a State from establishing more than 1 advisory committee, including specialized advisory committees that focus on specific population groups, provider groups, or geographic areas.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"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 to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and

"(4) describe how the State will provide medical assistance to any other population group.

"(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 and resources (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) the 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 the impoverishment of the community spouse; and

"(E) any other standards relating to eligibility for medical assistance under the plan.

"(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 use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case 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—

"(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) SUPPORT FOR CERTAIN 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 include a description of the extent to which provisions have been made for expenditures for items and services furnished by such hospitals and covered under the plan.

"(B) HOSPITALS DESCRIBED.—

"(i) IN GENERAL.—Except as provided in clause (iii), a hospital described in this subparagraph is a hospital determined to be eligible for purposes of this title in accordance with the criteria described in clause (ii) and such procedures as the Secretary may require, including such reporting requirements as the Secretary determines necessary to ensure continuing eligibility.

"(ii) CRITERIA FOR ELIGIBILITY.—A hospital meets the criteria described in this clause if the hospital is a short-term acute care general hospital or a children's hospital and the hospital's low-income utilization rate exceeds the lesser of—

"(I) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a medicaid plan in the State in which such hospital is located; or

"(II) 1¼ standard deviation above the mean low-income utilization rate for hospitals receiving such payments in all States.

"(iii) SPECIAL ELIGIBILITY.—A hospital not described in clause (i) may be eligible for purposes of this title, if upon application to the Secretary, such hospital is determined by the Secretary to be a hospital which provides essential access to vulnerable populations, offers special services to such populations, or meets other criteria consistent with this title as determined by the Secretary.

"(iv) LOW-INCOME UTILIZATION RATE.—For purposes of clause (i), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient 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.

"(v) PATIENT DAYS.—For purposes of clause (iv), the term 'patient day' includes each day in which—

"(I) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or

"(II) an individual makes one or more outpatient visits to the hospital.

"(c) IMMUNIZATIONS FOR CHILDREN.—The medicaid plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the medicaid plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

"(d) FAMILY PLANNING SERVICES.—The medicaid plan shall provide prepregnancy planning services and supplies as specified by the State.

"(e) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a medicaid plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the medicaid plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual 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 any such covered item or service denied or excluded on the basis of a preexisting condition.

"(f) MENTAL HEALTH SERVICES.—A medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.

"(g) SOLVENCY STANDARDS.—A medicaid plan shall provide that any State law solvency requirements that apply to private sector health plans and providers shall apply to the State medicaid plan and providers under such plan.

"SEC. 2112. SET-ASIDES OF FUNDS FOR POPULATION GROUPS.

"(a) FOR TARGETED LOW-INCOME FAMILIES.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family amount specified in paragraph (2).

"(2) MINIMUM LOW-INCOME-FAMILY AMOUNT.—The minimum low-income-family amount specified in this paragraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

"(A) who (at the time of furnishing the assistance) were under 65 years of age;

"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.

"(3) TARGETED LOW-INCOME FAMILY DEFINED.—For purposes of this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

"(A) which includes a child or a pregnant woman; and

"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

"(b) FOR LOW-INCOME ELDERLY.—

"(1) SET-ASIDES.—Subject to subsection (e)—

"(A) GENERAL SET-ASIDE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be

not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The medicaid plan shall provide priority for making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 (not including expenditures for such fiscal year taken into account under subparagraph (B)) which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'targeted low-income elderly individual' means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) FOR LOW-INCOME DISABLED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income 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).

"(2) MINIMUM LOW-INCOME-DISABLED AMOUNT.—The minimum low-income-disabled amount specified in this paragraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(B) whose coverage (at such time) was on a basis directly related to disability status, including being blind, and not to age status.

"(d) USE OF RESIDUAL FUNDS.—

"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may only be expended under the medicaid plan for any of the following:

"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

"(C) ADMINISTRATION.—Payment for the administration of the medicaid plan.

"(2) MEDICALLY-RELATED SERVICES DEFINED.—For purposes of this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a)(1) (relating to the definition of medical assistance).

"(e) COMPUTATIONS.—

"(1) MINIMUM AMOUNTS.—States shall calculate the minimum amounts under subsections (a)(2), (b)(2), and (c)(2) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved.

"(2) EXCLUSION OF PAYMENTS FOR CERTAIN ALIENS.—For purposes of this section, medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(f) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET ASIDES.—For purposes of this section, the term 'mandated benefits'—

"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX; and

"(2) does not include expenditures attributable to disproportionate share payment adjustments described in section 1923.

"SEC. 2113. PREMIUMS AND COST-SHARING.

"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the medicaid plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

"(1) IN GENERAL.—In the case of a family described in paragraph (2)—

"(A) the plan shall not impose any premium; and

"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the medicaid plan for children or pregnant women unless such cost-sharing is nominal in nature.

"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

"(A) includes a child or a pregnant woman;

"(B) is made eligible for medical assistance under the medicaid plan; and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a medicaid plan (consistent with subsection (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise;

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care;

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size;

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage; or

"(5) from scaling cost-sharing based on participation in employment training program, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

"(d) COST-SHARING DEFINED.—For purposes of this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

"(a) IN GENERAL.—If a State contracts (or intends to contract) 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 organization for providing or arranging for the provision of medical assistance under the medicaid plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of 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 (or to be enrolled) in such an organization under the medicaid plan; and

"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(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 contracts with capitated health care organizations, 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 qualifying and billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).

"(b) PUBLIC NOTICE AND COMMENT.—Under the medicaid plan the State shall provide a process for providing, before the beginning of each contract year—

"(1) public notice of—

"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved or (ii) the amounts of the capitation payments the State expects to make for the contract year involved,

unless such information is designated as proprietary and not subject to public disclosure under State law; and

"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

"(c) DEFINITIONS.—For purposes of this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.

"SEC. 2115. CONSTRUCTION.

"(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring a State—

"(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;

"(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual; or

"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance;

"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance; or

"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"SEC. 2116. TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES.

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) NO COMPARABLE TREATMENT REQUIRED.—Any different treatment provided under this section for institutionalized spouses shall not require such treatment for other individuals.

"(3) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources; or

"(B) the methodology and standards for determining and evaluating income and resources.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under a medicaid plan approved under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for benefits under a medicaid plan approved under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse; and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for benefits).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under a medicaid plan approved under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—For purposes of this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613; and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance under a medicaid plan approved under this title, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(B).

"(B) A community spouse monthly income allowance (as defined in subparagraph (3)), but only to the extent income of the institutionalized spouse is made available to, or for the benefit of, the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).

For purposes of subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) PERSONAL NEEDS ALLOWANCE.—

"(A) IN GENERAL.—For purposes of this section, the term 'personal needs allowance' means an allowance—

"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution; and

"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (B).

"(B) MINIMUM MONTHLY PERSONAL NEEDS ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

"(3) 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) except as provided in subsection (e), 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).

"(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(4) 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 exceeds—

"(i) the applicable percent (described in subparagraph (B)) of 1/12 of the poverty line applicable to a family unit of 2 members); plus

"(ii) an excess shelter allowance (as defined in paragraph (5)).

A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the applicable percent described in this paragraph, effective as of July 1, 1992, is 150 percent.

"(C) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(5) EXCESS SHELTER ALLOWANCE DEFINED.—For purposes of paragraph (4)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence; and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) INCURRED EXPENSES.—For purposes of this section, with respect to the post-eligibility treatment of income of individuals who are institutionalized or who would otherwise require institutionalization but for the provision of home or community-based services, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance; and

"(B) necessary medical or remedial care recognized under State law but not covered under the medicaid plan approved under this title, subject to reasonable limits the State may establish on the amount of these expenses.

"(e) NOTICE AND FAIR HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance under a medicaid plan approved under this title of an institutionalized spouse; or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse;

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under this subsection respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(2)(B));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as determined under subsection (f)(2));

such spouse is entitled to a fair hearing with respect to such determination if an application for benefits under a medicaid plan approved under this title has been made on behalf of the institutionalized spouse. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may transfer an amount equal to the community spouse resource allowance (as determined under paragraph (2)), 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 as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DETERMINED.—For purposes of paragraph (1), the community spouse resource allowance for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(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 involved.

"(h) DEFINITIONS.—For purposes of this section:

"(1) 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. The term does not include any such individual who is not likely to meet the requirements of the preceding sentence for at least 30 consecutive days.

"(2) COMMUNITY SPOUSE.—The term 'community spouse' means the spouse of an institutionalized spouse.

"PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

"(a) ALLOTMENTS.—

"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

"(2) LIMITATION ON OBLIGATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

"(B) ADJUSTMENTS.—

"(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year.

"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise 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.

"(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the aggregate limit on new obligation authority, for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the payout adjustment factor—

"(i) for fiscal year 1996 is .950;

"(ii) for fiscal year 1997 is .986; and

"(iii) for a subsequent fiscal year is .998.

"(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

"(i) the pool amount for such year; reduced by

"(ii) $24.624 billion.

"(4) OBLIGATION ALLOTMENTS.—

"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the obligation allotment 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 (4)) for the fiscal year as the ratio of—

"(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year; to

"(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

"(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

"(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, where—

"(I) 'A' is the obligation amount for such State;

"(II) 'B' is the outlay allotment of such State for fiscal year 1996 (as determined under subsection (c));

"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)); and

"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

"(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State, including the District of Columbia, Commonwealths, and territories. The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

"(iii) AGREEMENT.—The submission of a medicaid plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the formula for computing the amount of such obligation allotment.

"(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—For purposes of this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government 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.

"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—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.

"(b) POOL OF AVAILABLE FUNDS.—

"(1) IN GENERAL.—For purposes of this section and subject to section 2124, the pool amount under this subsection for—

"(A) fiscal year 1996 is $97,245,440,000;

"(B) fiscal year 1997 is $102,607,730,702;

"(C) fiscal year 1998 is $106,712,039,930;

"(D) fiscal year 1999 is $110,980,521,527;

"(E) fiscal year 2000 is $115,419,742,389;

"(F) fiscal year 2001 is $120,036,532,084;

"(G) fiscal year 2002 is $124,837,993,367; and

"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.

"(2) NATIONAL MEDICAID GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the national medicaid growth percentage is the percentage by which—

"(A) the pool amount under paragraph (1) for the fiscal year; exceeds

"(B) such pool amount for the previous fiscal year.

"(c) STATE OUTLAY ALLOTMENTS.—

"(1) FISCAL YEAR 1996.—

"(A) IN GENERAL.—Except as provided in paragraph (6), for each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996, subject to paragraph (4), is 109 percent of—

"(i) the greatest of—

"(I) the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1995,

"(II) 103.379859 percent of the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994, or

"(III) 95 percent of the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1993; multiplied by

"(ii) the scalar factor described in subparagraph (D).

"(B) COMPUTATION OF EXPENDITURES.—The amount of Federal expenditures described in subparagraph (A)(i) shall be computed, using data reported for the appropriate fiscal year on line 11 of the HCFA Form 64.

"(C) LIMITATION ON ADJUSTMENT.—The amount computed under subparagraph (B) shall not be subject to adjustment (based on any subsequent disallowances or otherwise).

"(D) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is the ratio of $89,216,000,000 to the total amount of Federal expenditures (minus the amount paid under section 1923) made to all States and the District of Columbia for the 4 quarters in fiscal year 1995.

"(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay 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 the product of—

"(i) the needs-based amount determined under subparagraph (B) for such State or District for the fiscal year; and

"(ii) the scalar factor described in subparagraph (C) for the fiscal year.

"(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the State's or District's aggregate expenditure 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 2122(c) (without regard to paragraph (3)(A)(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 1996).

"(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase or decrease in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

"(3) FLOORS AND CEILINGS.—

"(A) FLOOR.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

"(I) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

"(II) .26 percent of the pool amount for such fiscal year; or

"(III) in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.8 percent of such State's or District's outlay allotment for 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the preceding fiscal year.

"(ii) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

"(I) For fiscal year 1999, 104.25 percent.

"(II) For fiscal years 2000 and 2001, 104 percent.

"(III) For fiscal year 2002, 103.4 percent.

"(B) CEILING.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

"(II) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage is—

"(I) for fiscal year 1997, 125.5 percent;

"(II) for fiscal year 1998, 132 percent;

"(III) for fiscal year 1999, 151 percent;

"(IV) for fiscal year 2000, 156 percent;

"(V) for fiscal year 2001, 144 percent;

"(VI) for fiscal year 2002, 146 percent.

"(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

"(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 may elect (by notice provided to 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's or District's outlay allotment in fiscal year 1995 and for the increase or decrease in the amount of such allotment in subsequent fiscal years.

"(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 (1) 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 deferred from 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 (2) is applied to increase 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 (1).

"(5) 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 or territory for the fiscal year with respect to title XIX, if the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B).

"(6) 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 $360,000,000; and

"(ii) Louisiana for each of the fiscal years 1996 through 2000, is $2.622 billion.

"(B) EXCEPTION.—A State described in subparagraph (A) may apply to the Secretary for use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

"(d) AGGREGATE EXPENDITURE NEED DETERMINED.—

"(1) 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) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of such State or District with respect to the fiscal year (as determined under paragraph (2)).

"(B) CASE MIX INDEX.—The average of the case mix indexes for such State or District (as determined under paragraph (3)) for the 3 most recent fiscal years for which data are available.

"(C) INPUT COST INDEX.—The average of the input cost indexes for such State or District (as determined under paragraph (4)) for the 3 most recent fiscal years for which data are available.

"(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

"(2) RESIDENTS IN POVERTY.—For purposes of this section:

"(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State or the District of Columbia and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual described in section 1614(a)(1)(B)(i) whose family income does not exceed 100 percent of the poverty line for the year involved applicable to a family of the size involved threshold.

"(3) CASE MIX INDEX.—

"(A) IN GENERAL.—For purposes of this subsection, the case mix index for a State or the District of Columbia for a fiscal year is equal to—

"(i) the sum of—

"(I) the per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B)),

"(II) the per recipient expenditures with respect to the blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C)), and

"(III) the per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D)); divided by—

"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

"(B) PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(i)(I), the per recipient expenditures with respect to elderly individuals in a 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; and

"(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.

"(C) PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the per recipient expenditures with respect to blind and disabled individuals in a 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 are eligible for medical assistance because such individuals are blind or disabled and under retirement age; and

"(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.

"(D) PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the per recipient expenditures with respect to other individuals in a 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 are not described in subparagraph (B)(i) or (C)(i); and

"(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.

"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the national average expenditures per recipient for a fiscal year is equal to the sum of—

"(i) the product of (I) the national average described in subparagraph (B)(i), 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;

"(ii) the product of (I) the national average described in subparagraph (C)(i), 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; and

"(iii) the product of (I) the national average described in subparagraph (D)(i), 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.

"(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 MEDICAID DATA.—If for a fiscal year 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 such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

"(I) any reference in subparagraph (B)(i) to 'individuals who have attained retirement age' is deemed a reference to 'individuals whose eligibility for medical assistance is based on having attained retirement age';

"(II) the reference in subparagraph (C)(i) to 'and under retirement age' shall be considered to be deleted; and

"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

"(iii) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means expenditures for medical assistance under the medicaid plan, other than medical assistance attributable to disproportionate share payment adjustments described in section 2111(b)(7) (or section 1923, in the case of fiscal year 1995).

"(4) INPUT COST INDEX.—

"(A) IN GENERAL.—For purposes of this section, the input cost index for a State or the District of Columbia for a fiscal year is the sum of—

"(i) 0.15; 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 (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for the fiscal year involved.

"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the national average spending per resident in poverty—

"(A) for fiscal year 1997 is equal to—

"(i) 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)(1)(A)(ii), divided by

"(ii) the average of the sum of the 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, and increased by

"(iii) the national medicaid growth percentage (as defined in subsection (b)(2)) for fiscal year 1997;

"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national medicaid growth percentage (as so defined) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State and the District of Columbia 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 and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 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.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which such allotments comply with the precise requirements of this section.

"SEC. 2122. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121, plus any additional amount available to such State under subsection (g) or (h), for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a medicaid plan approved under part E, for each quarter in the fiscal year—

"(1) an amount equal to the Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(d)(2)); plus

"(3) an amount equal to—

"(A) 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, 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, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—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 medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(c) FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, except as provided in subsection (f), the Federal medical assistance percentage, with respect to each of the 50 States or the District of Columbia, is 100 percent less the State percentage.

"(2) STATE PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(B) EXCEPTION.—For purposes of this title only, for Alaska, the State percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the input cost index for such State (as determined in section 2121(d)(4)).

"(3) LIMITATION ON RANGE.—In no case shall the Federal medical assistance percentage be—

"(A) less than—

"(i) 60 percent, or

"(ii) 50 percent, in the case of any other provision of law other than this title; or

"(B) more than 83 percent.

"(4) PROMULGATION.—The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(d) PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—

"(1) GENERAL LIMITATIONS.—

"(A) REDUCTION IN MEDICAL ASSISTANCE EXPENDITURES.—Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (5)(D)) under this section for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the medicaid plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B)); or

"(iii) 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 previous provisions of this section, for purposes of determining the amount to be paid to a State under this section for all quarters in a Federal fiscal year (beginning with fiscal year 1996), the total amount expended during the fiscal year for administrative expenditures under the medicaid plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the medicaid plan approved under this title during the fiscal year for purposes described in subsection (a)(3).

"(2) PROVIDER-RELATED DONATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (5)(B));

"(ii) an entity related to a health care provider (as defined in paragraph (5)(C)); or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under subsection (a)(3).

"(B) BONA FIDE PROVIDER-RELATED DONATIONS.—For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) DONATIONS DESCRIBED.—For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under a medicaid plan approved under this title and to provide outreach services to eligible or potentially ellgible individuals.

"(3) HEALTH CARE RELATED TAXES.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'health care related tax' means a tax (as defined in paragraph (5)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services; or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) BROAD-BASED HEALTH CARE RELATED TAX.—For purposes of this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (5)(A)) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers in the State (or, in the case of a tax imposed by 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; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C) UNIFORM IMPOSITION OF TAX.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) 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 services) on the basis of the number of beds (licensed or otherwise) of the provider, or the number of patient days or other unit of service, the amount of the tax is the same for each bed, or each unit of service, of each provider of such items or services in the class:

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items of services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) DETERMINATION OF NONUNIFORMITY.—Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or provides for a hold harmless provision described in paragraph (4).

"(D) EXCEPTIONS TO NONUNIFORMITY DETERMINATIONS.—A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a medicaid plan approved under this title or title XVIII; or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a medicaid plan approved under this title or title XVIII.

"(E) WAIVER APPLICATION FOR TREATMENTS AS BROAD-BASED TAX.—

"(i) IN GENERAL.—A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraph (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) WAIVER APPROVAL REQUIREMENTS.—The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under the medicaid plan approved under this title as proposed by the State is generally redistributive in nature; and

"(II) the amount of the tax is not directly correlated to payments under such plan for items or services with respect to which the tax is imposed.

"(iii) DETERMINATION OF REDISTRIBUTIVE NATURE.—In determining whether a tax for which a waiver is sought is generally redistributive in nature, the Secretary shall, if requested by the State—

"(I) compare the tax to a tax that meets any of the uniformity requirements of subparagraphs (C) or (D); and

"(II) consider in the aggregate all classes (or providers) of health care items or services that are subject to the same tax.

"(iv) TERM OF WAIVER.—A tax for which the Secretary has approved an application for waiver shall not be subject to the requirements of a further waiver application solely because a change in the rate of tax.

"(F) TREATMENT OF MANAGED CARE PREMIUMS.—No tax on the payment or receipt of premiums or similar periodic payments to health maintenance organizations or health care insurers shall be treated as a health care related tax unless and until the Secretary, after consultation with the States pursuant to section 5(c) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, adopts a final regulation specifically subjecting such taxes, or any of such taxes, to the provisions of this subsection.

"(4) HOLD HARMLESS DETERMINATION.—For purposes of paragraph (1)(A)(iii), 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:

"(A) 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.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

Notwithstanding the provisions of this paragraph, no hold harmless shall be found to be in effect with respect to a tax enacted or extended prior to October 1, 1995, 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.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

"(A) CLASSES OF HEALTH CARE ITEMS AND SERVICES.—Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 2114) not otherwise subject to a tax described in this subsection.

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) HEALTH CARE PROVIDER.—The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) RELATED ENTITIES.—An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, 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 in 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 State fiscal year ending in that specified year.

"(F) TAX.—The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include any fee or charge associated with a State regulatory, authorizing, financial assistance, or other program in which health care providers are eligible to participate, or payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.

"(6) CERTAIN IMPOSITION OF HEALTH CARE RELATED TAXES PROHIBITED.—No payment may be made to a State under this section with respect to State expenditures attributable to health care related taxes or broad-based health care related taxes imposed on hospitals described in section 501(c)(3) of the Internal Revenue Code of 1986 which do not accept reimbursement under a medicaid plan.

"(e) TREATMENT OF STATE EXPENDITURES.—

"(1) IN GENERAL.—No payment may be made to a State under this section unless such State provides not less than 40 percent of the non-Federal share of the expenditures under the medicaid plan.

"(2) TREATMENT OF CERTAIN EXPENDITURES.—In determining State expenditures under this section:

"(A) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such expenditures shall not include funding supplanted by transfers from other State and local programs.

"(B) EXCLUSION OF FEDERAL AMOUNTS.—Such expenditures shall not include amounts made available by the Federal Government and 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 this title.

"(f) SPECIAL RULES.—For purposes of this title:

"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the Federal medical assistance percentages are 50 percent.

"(2) INDIAN HEALTH PROGRAMS.—The Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are provided by—

"(A) the Indian Health Service;

"(B) an Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.); or

"(C) an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under authority of title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(3) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"(4) SPECIAL RULE.—

"(A) IN GENERAL.—Notwithstanding subsection (a), in order to receive the full State outlay allotment described in section 2121(c)(6), a State shall expend State funds in a 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.

"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE LIMIT NOT MET.—In the event a State fails to expend State funds in an amount required by subparagraph (A) for a fiscal year, the outlay allotment described in section 2121(c)(6) for such year shall be reduced 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).

"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means—

"(i) for New Hampshire, $203,000,000; and

"(ii) for Louisiana, $355,000,000.

"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for any fiscal year is specified in the following table:

"Fiscal year:	Applicable Percentage:
1996	20
1997	40
1998	60
1999	80
2000	100.

"(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) CARRYOVER OF ALLOTMENT PERMITTED.—

"(A) IN GENERAL.—If the amount of the payment to a State under this section for a fiscal year does not exceed—

"(i) the amount of the allotment provided to such State under section 2121 for such fiscal year, plus

"(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2)) resulting from the application of this subparagraph in the preceding fiscal year,

then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

"(B) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference described in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 to a State may not exceed the total amount for the 2 immediately preceding fiscal years of the difference in each such fiscal year between the payment to a State under this section and the amount of the allotment provided under section 2121.

"(2) EXCESS AMOUNTS REALLOCATED.—

"(A) IN GENERAL.—The sum of the amounts in excess of the maximum carryover amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and the District of Columbia shall be available for payment in such fiscal year to qualified States on a quarterly basis as otherwise determined under this section.

"(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

"(i) with a State outlay allotment under section 2121 which is—

"(I) subject to the ceiling determined under section 2121(c)(3)(B) for the fiscal year,

"(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

"(III) subject to such floor;

"(ii) which has no amount of difference as determined under paragraph (1) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year; and

"(iii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

"(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments applied for by all qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate such payments among groups of qualified States in the following order:

"(i) All qualified States described in subparagraph (B)(i)(I).

"(ii) All qualified States described in subparagraph (B)(i)(II).

"(iii) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

"(h) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) APPROPRIATION.—There is hereby authorized to be appropriated and there are appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

"(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

"(A) For Arizona, $63,000,000.

"(B) For Florida, $250,000,000.

"(C) For Georgia, $34,000,000.

"(D) For Kentucky, $76,500,000.

"(E) For South Carolina, $181,000,000.

"(F) For Washington, $250,000,000.

"(G) For Vermont, $50,000,000.

"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2); or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

"(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.

"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual 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 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit

plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(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 medical assistance provided for an individual under its medicaid plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care program, other than a program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 2122(b) shall apply.

"(f) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NONLAWFUL ALIENS.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment shall be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(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 a requirement 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) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy;

"(B) serious impairment to bodily functions; or

"(C) serious dysfunction of any bodily organ or part.

"(g) UNAUTHORIZED USE OF FUNDS.—No payment shall be made to a State under this part with respect to State expenditures—

"(1) to purchase or improve land or construct or remodel buildings;

"(2) to pay basic room and board costs, except when provided as part of a temporary, respite care service in a facility approved by the State which is not a private residence;

"(3) to provide educational services which the State makes generally available to its residents without cost and without regard to income; or

"(4) to provide vocational rehabilitation or other employment training and related services which are available to eligible individuals through other Federal, State or local programs and funding sources.

"SEC. 2124. GRANT PROGRAM FOR COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.

"(a) IN GENERAL.—From the pool amount determined under section 2121(b)(1) for a fiscal year, the Secretary shall set aside an amount equal to 1 percent of such amount.

"(b) USE OF FUNDS.—Fifty percent of the amount set aside by the Secretary under subsection (a) shall only be used for grants for primary and preventive health care services provided at rural health clinics (as defined in section 1861(aa)(2)) and 50 percent of such amount shall only be used for grants for such services provided at Federally-qualified health centers (as defined in section 1861(aa)(4)).

"(c) GRANT AMOUNTS.—The Secretary shall provide the methodology for determining the amount of each grant made under subsection (b).

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each medicaid plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter; or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State 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 proposed medicaid plan amendments are made available under section 2105.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each medicaid plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each medicaid plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the medicaid plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the medicaid plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The medicaid plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or 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.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the medicaid plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(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 certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract;

"(2) to licensing authorities described in subsection (a)(1);

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h));

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts;

"(5) to State medicaid fraud control units (as defined in section 2134(b));

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act);

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate; and

"(8) upon request, to the Comptroller General, in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section 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 for a State medicaid fraud control unit that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.

"(b) UNITS DESCRIBED.—For purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

"(1) ORGANIZATION.—The entity—

"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

"(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the medicaid plan.

"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the medicaid plan.

"(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.

"(5) OVERPAYMENTS.—

"(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the medicaid plan to health care providers and that are discovered by the entity in carrying out its activities.

"(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received reasonable written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.

"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

"(a) THIRD PARTY LIABILITY.—Each medicaid plan shall provide for reasonable steps—

"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties; and

"(2) to seek reimbursement for medical assistance provided to the extent legal liability is established if the amount expected to be recovered exceeds the costs of the recovery.

"(b) BENEFICIARY PROTECTION.—

"(1) IN GENERAL.—Each medicaid plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability; and

"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

"(2) PENALTY.—A medicaid plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a medicaid plan for any State.

"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a medicaid plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The medicaid plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

"(1) IN GENERAL.— Each State with a medicaid plan shall have in effect the following laws:

"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(i) the child was born out of wedlock;

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return; or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the

amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under a medicaid plan approved under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under the medicaid plan approved under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under a medicaid plan approved under this title;

"(ii) has received payment from a third party for the costs of such services to such child; but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the medicaid plan, including through the imposition of liens against the property or estate of the individual.

"(2) NO LIEN ON HOMES OR FAMILY FARMS.—For purposes of paragraph (1), a State may not impose a lien on the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of moderate value or the family farm owned by the individual as a condition of the spouse of the individual receiving nursing facility or other long term care benefits under its medicaid plan.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the medicaid plan, each medicaid plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, subsection (b) shall be effective on and after January 1, 1996.

"SEC. 2137. REQUIREMENTS FOR NURSING FACILITIES.

"(a) REQUIREMENTS FOR NURSING FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day after the date of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

"(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

"(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

"(i) are equivalent to or stricter than the requirements imposed under paragraph (1); and

"(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect,

may apply to the Secretary for a waiver of the requirements imposed under paragraph (1).

"(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under subparagraph (A) not later than 120 days after the date the application is submitted.

"(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

"(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

"(i) the penalty described in subsection (b);

"(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

"(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

"(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 2 percent of the State outlay allotment under section 2121(c) for such fiscal year if the Secretary makes a determination that a State medicaid plan has failed to comply with a provision of section 1919, as so in effect, or any State law requirements applicable to such plan under a waiver granted under subsection (a)(2)(A).

"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each medicaid plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each medicaid plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan; and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDICAID PLANS

"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDICAID 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 the Secretary may provide under section 2153, a medicaid plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title; and

"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its medicaid plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 2153, an amendment to a medicaid plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title; and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to medicaid plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4):

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility

or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) that becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. SANCTIONS FOR SUBSTANTIAL NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review medicaid plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a medicaid plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title; and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the medicaid plan) specified in the order beginning on the date of the notice of the determination.

"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a medicaid plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the medicaid plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved;

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title; and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a medicaid plan (or amendment to such a plan) or the administration of the medicaid plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect; and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

"(c) STATE RESPONSE TO ORDERS.—

"(1) STATE RESPONSE BY REVISING PLAN.—

"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a medicaid plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the plan or plan amendment to substantially comply with the requirements of this part.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1); or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the medicaid plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the medicaid plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the medicaid plan shall be treated as though the amendment had not been made.

"(d) ADMINISTRATIVE REVIEW AND HEARING.—

"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(e) JUDICIAL REVIEW.—

"(1) IN 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 review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the 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 2112 of title 28, United States Code.

"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further

proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a medicaid plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"SEC. 2154. SECRETARIAL AUTHORITY.

"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute 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.

"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2153.

"(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 Administrator may not further delegate such authority to any 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 prospective 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 the cost of any of the following for 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) Over-the-counter medications.

"(J) Laboratory and radiological services.

"(K) Family planning services and supplies.

"(L) Acute inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

"(M) Outpatient and intensive community-based mental health services, including psychiatrist rehabilitation, day treatment, intensive in-home services for children, and partial hospitalization.

"(N) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(O) Disposable medical supplies.

"(P) Home and community-based services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

"(Q) Community supported living arrangements.

"(R) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

"(S) Dental services.

"(T) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(U) Outpatient substance abuse treatment services.

"(V) Case management services.

"(W) Care coordination services.

"(X) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(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 by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(ii) performed under the general supervision or at the direction of a physician, or

"(iii) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(AA) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

"(BB) Medical transportation.

"(CC) Medicare cost-sharing (as defined in subsection (c)).

"(DD) 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.

"(EE) 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 during such year does not exceed—

"(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 2112(a)(3)), less

"(ii) 75 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.

"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—For purposes of this title, the term 'eligible low-income individual' means an individual who has been determined eligible by the State for medical assistance under the medicaid plan and whose family income (as determined under the plan) does not exceed a percentage (specified in the medicaid plan and not to exceed 250 percent) of the poverty line applicable to a family of the size involved. In determining the amount of income under the previous sentence, a State may exclude costs incurred for medical care or other types of remedial care recognized by the State. The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3).

"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

"(1)(A) Premiums under section 1839.

"(B) Premiums under section 1818 or 1818A.

"(2) Coinsurance under title XVIII, including coinsurance described in section 1813.

"(3) Deductibles established under title XVIII, including those described in section 1813 and section 1833(b).

"(4) The 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'.

"(5) 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.

"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).

"(3) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"(4) RETIREMENT AGE.—The term 'retirement age' has the meaning given such term by section 216(l)(1).

"SEC. 2172. TREATMENT OF TERRITORIES.

"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—

"(1) the Federal medical assistance percentage;

"(2) the limitation on total payments in a fiscal year to 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 expended by the State for care and services described in paragraph (1) of section 2171(a) and medically-related services (as defined in section 2112(d)(2)).

"SEC. 2173. 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(f)(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 judicial review), but only insofar as consistent with the provisions of part C.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1132 (relating to periods within which claims must be filed).".

(b) ANTI-FRAUD PROVISIONS.—

(1) IN GENERAL.—Section 1128(h)(1) (42 U.S.C. 1320a-7(h)(1)) is amended by inserting "or a medicaid plan under title XXI" 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-7b(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), aiding in such a transfer, or otherwise, in order for 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 medicaid program under title XIX of such Act before the date of the enactment of this Act.

(c) CERTIFIED AMOUNT FOR PUERTO RICO.—Paragraph (1) of section 1108(c) (42 U.S.C. 1308(c)) is amended by striking "$116,500,000 for fiscal year 1994" and inserting "$200,000,000 for fiscal year 1996".

(d) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

(1) IN GENERAL.—Subject to paragraph (2), section 1928 (42 U.S.C. 1396s) is repealed, effective on the date of the enactment of this Act.

(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 may be purchased after the date of the enactment of this Act by the Federal Government or any State under section 1928(d) of the Social Security Act.

(e) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—

(1) IN GENERAL.—Title XIX is amended—

(A) by redesignating section 1931 as section 1932; 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 title—

"(1) AFTER ENACTMENT, BEFORE NEW MEDICAID.—Subject to paragraph (2), the Secretary is authorized to enter into obligations with any State under this title for expenses incurred after the date of the enactment of this section and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(a)(4)(C).

"(2) NONE AFTER NEW MEDICAID.—The Secretary is not authorized to enter into any obligation with any State under this title for expenses incurred on or after the earlier of—

"(A) October 1, 1996; or

"(B) the first day of the first quarter on which the State plan under title XXI is first effective.

"(3) AGREEMENT.—A State's submission of claims for payment under section 1903 after the date of the enactment of this section with respect to which the limitation 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.

"(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 paid by the State with respect to such obligations. Nothing in subsection (a) or (b) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.".

(2) REPEAL OF TITLE.—Title XIX is repealed effective October 1, 1996.

(f) MEDICAID TRANSITION.—

(1) TREATMENT OF CERTAIN CAUSES OF ACTION.—No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with title XIX and which has not become final as of such date shall be brought or continued.

(2) TREATMENT OF CERTAIN DISALLOWANCES.—Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed (including judicial review) by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(3) EXTENSION OF MORATORIUM.—Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "the first day of the first quarter on which the medicaid plan for the State of Michigan is first effective under title XXI of such Act".

(g) NO APPLICATION OF PRIOR MEDICAID JUDGMENTS TO NEW MEDICAID PROGRAM.—No judicial or administrative decision rendered regarding requirements imposed 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, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, 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 7191 and 7192.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

SEC. 7192. MEDICAID DRUG REBATE PROGRAM.

(a) IN GENERAL.—Title XXI, as added by section 7191, is amended—

(1) in section 2123, by adding at the end the following new subsection:

"(j) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(j)(2)) of a manufacturer provided under the medicaid plan unless the manufacturer (as defined in section 2175(j)(5)) of the drug—

"(A) has entered into a medicaid rebate agreement with the Secretary under section 2175; and

"(B) is otherwise complying with the provisions of such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the medicaid rebate agreement under section 2175.

"(3) USE OF SUPPLEMENTAL REBATES PROHIBITED.—No payment shall be made under this part to a State that requires manufacturer rebates for covered outpatient drugs (as so defined) in excess of the rebate amount payable under section 2175."; and

(2) by adding at the end the following new section:

"SEC. 2175. MEDICAID DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 2123(j), 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 must have entered into and have in effect 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 paragraph (5) (with respect to drugs purchased by a covered entity on or after the first day of the first 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 prior to May 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid by 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 before May 1, 1991, such an agreement, subsequently entered into, shall not be effective until

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 dispensed before May 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the medicaid plan;

"(B) the drug has been given a rating of 1-A or 1-P by the Food and Drug Administration; and

"(C)(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)(5), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug if (A)(i) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the medicaid plan for medical assistance; (ii) such drug has been given a rating of 1-A by the Food and Drug Administration; and (iii)(I) 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), or (II) the Secretary has reviewed and approved the State's determination under subparagraph (A); or (B) the Secretary determines 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, for the initial agreement period specified therein, shall be considered to be a rebate agreement in effect under this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement and such agreement provides for a minimum aggregate rebate of 10 percent of the sum of the amounts determined under subparagraph (B) for all of the manufacturer's drugs paid for by the State under the agreement. If, after the initial agreement period, the State establishes to the satisfaction of the Secretary that an agreement in effect on the date of the enactment of title IV of the Omnibus Budget Reconciliation Act of 1990 provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

"(B) AMOUNT DETERMINED.—The amount determined under this subparagraph with respect to a manufacturer's drug paid for by a State under an agreement described in the first sentence of subparagraph (A) is an amount equal to the product of—

"(i) the average manufacturer's price for such drug; and

"(ii) the number of dosage units of such drug paid for by the State under such agreement.

"(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph 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 first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act.

"(C) ESTABLISHMENT 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 Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement from the medicaid plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) 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.

"(E) 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.

"(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 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.

"(C) 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 8126 of title 38, United States Code (as in effect immediately after the enactment of 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.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each medicaid plan approved under this title, a rebate for a rebate period 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 medicaid 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 involved.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under 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 medicaid plan in the quarter for medical assistance for purposes of this title.

"(2) STATE PROVISION OF 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 rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug dispensed after December 31, 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.

"(3) 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 (j)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement; and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (j)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the

deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section;

"(ii) to permit the Comptroller General to review the information provided; and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of agreements described in section 340B(a)(1) of the Public Health Service Act and master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(5) SETTLEMENT OF DISPUTES.—

"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section.

"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State's medicaid plan, shall have authority, independent of the Secretary' authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the medicaid plan approved under this title.

"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection for a rebate period (as defined in subsection (j)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the medicaid plan in the rebate period (as reported by the State); and

"(ii) subject to subparagraph (B)(ii), the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)(i)) of such average manufacturer price,

of or the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the minimum rebate percentage for rebate periods beginning after December 31, 1995, is 15.1 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section:

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B);

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

"(III) any prices used under a State pharmaceutical assistance program; and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package; and

"(III) shall not take into account prices that are merely nominal in amount.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the medicaid plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the consumer price index for all urban consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting '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 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period; and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the medicaid plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) REBATE LIMITED TO AMOUNT OF STATE PAYMENT IF DRUG PRIMARILY DISPENSED TO NURSING FACILITY PATIENTS.—

"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.

"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the medicaid plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.

"(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 (5).

"(B) ADDITIONAL RESTRICTIONS.—A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

"(i) the drug is contained in the list referred to in paragraph (2);

"(ii) 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

"(iii) the State has excluded coverage of the drug from 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 when 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, the State's drug use review 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) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to 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 prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (j)(6)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The medicaid plan permits 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 (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—A medicaid plan approved under this title may require, as a condition of coverage or payment for a covered outpatient 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 approval of the drug before its dispensing 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) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—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 pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such and shall use only such formulations when determining any such upper limit.

"(f) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the medicaid rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(B) DATA ON DRUG USE.—The program shall assess data on drug use against predetermined standards, consistent with—

"(i) compendia which shall consist of—

"(I) American Hospital Formulary Service Drug Information,

"(II) United States Pharmacopeia-Drug Information,

"(III) the DRUGDEX Information System, and

"(IV) American Medical Association Drug Evaluations; and

"(ii) the peer-reviewed medical literature.

"(g) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its medicaid plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) the effect of inflation on the value of rebates required under this section;

"(D) trends in prices paid under this title for covered outpatient drugs; and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(i) EXEMPTION FOR CAPITATED 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—

"(A) a capitated health care organization (as defined in section 2114(c)(1)); or

"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(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 from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

"(j) DEFINITIONS.—For purposes of this section:

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of this title, a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)); and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act,

"(ii)(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 310.6(b)(1) of title 21 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, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act, or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such

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;

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product;

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the medicaid plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

"(4) OVER-THE-COUNTER DRUG.—The term 'over-the-counter drug' means a drug that may be sold without a prescription.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the compendia described in subsection (f)(2)(B)(i).

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations');

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration; and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under a new drug application or product licensing application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug (not including any drug described in paragraph (2)(D)) which is produced or distributed under a new drug application or product licensing application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.

"(9) STATE AGENCY.—The term 'State agency' means the agency designated under this title to administer or supervise the administration of the medicaid plan for medical assistance.".

(b) MEDICAID DRUG REBATE PROGRAM TASK FORCE.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall provide for the establishment of a Medicaid Drug Rebate Program Task Force (in this subsection referred to as the "Task Force").

(2) COMPOSITION.—The Task Force shall consist of volunteer representatives appointed by—

(A) the chair and vice chair of the National Governors Association (NGA);

(B) the National Association of State Medicaid Directors;

(C) associations representing the prescription and generic drug industries;

(D) an association representing pharmacies; and

(E) an association representing the interests of medicaid recipients.

(3) DUTIES.—The Task Force shall study whether the medicaid drug rebate program under section 2175 of the Social Security Act, as added by this section, should be retained or repealed. The study shall assess—

(A) the extent to which State medicaid programs rely on the drug rebate program to manage prescription drug expenditures;

(B) the impact of repealing the program on recipient access to prescription drugs and pharmacy services;

(C) the impact of retaining the program on the prescription and generic drug industries; and

(D) the likely actions States would take to manage prescription drug expenditures in the absence of drug rebate revenue.

(4) ADMINISTRATIVE ASSISTANCE.—Administrative support for the Task Force shall be provided by the Agency for Health Care Policy and Research (or, in the absence of such Agency, the Secretary).

(5) REPORT.—Not later than October 1, 1998, the Task Force shall report the results of the study to the Secretary. The report shall be transmitted to the Committee on Finance and Special Committee on Aging of the Senate and the Committee on Commerce of the House of Representatives.

(c) CLERICAL AMENDMENT.—The table of sections for title XXI, as added by section 7191(a), is amended by adding at the end the following new item:

"Sec. 2175. Medicaid drug rebate agreements.".

(d) SPECIAL EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the amendment made by section 7191.

(2) RETROACTIVE APPLICATION OF CERTAIN PROVISIONS.—Subsections (b)(5), (c)(4), and (c)(5) of section 2175 of the Social Security Act, as added by this section, shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

SEC. 7193. WAIVERS.

(a) CONTINUATION OF WAIVERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 of the Social Security Act (42 U.S.C. 1315) or otherwise which relates to the provision of assistance under a State plan under title XIX of such Act has been implemented as of September 1, 1995, the waiver may continue, at the option of the State, subject to the terms and conditions of such 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 provided for in the waiver to the extent such payment does not exceed the payment under title XXI of the Social Security Act, as added by section 7191(a), such State would otherwise receive for the fiscal year.

(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 of Health and Human Services 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 this Act.

(c) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

SEC. 7194. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) CLASSIFICATION SYSTEM TO IDENTIFY CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the

Secretary of Health and Human Services (in this section referred to as the "Secretary") shall, through the Health Care Financing Administration, develop a national, quantifiable classification system to identify children with special health care needs.

(2) 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 at least a year's duration, and

(B) who require services significantly greater than well children.

(3) REQUIREMENTS OF CLASSIFICATION SYSTEM.—The classification system developed in accordance with this section—

(A) shall be based on commonly recognized diagnostic codes;

(B) shall be compatible with State and health plan data systems;

(C) shall be capable of serving as a basis for identifying such children and their medical expenditures and monitoring the quality of care received; and

(D) shall incorporate the consideration of the severity status, prognosis, and desired outcome for each such child, including tertiary prevention, maintenance of function, or improvement of function.

(b) DEMONSTRATION PROJECTS TO USE CLASSIFICATION SYSTEM AND TO PROVIDE METHODS OF ASSURING QUALITY CARE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

(1) IN GENERAL.—Upon completion of the development of the classification system under subsection (a), the Secretary shall make grants to not more than 5 States to conduct 5-year demonstration projects in accordance with this subsection for the purpose of—

(A) testing the reliability and validity of such classification system;

(B) developing methods of assuring quality care for children with special health care needs; and

(C) providing for initial methods for identifying children with special health care needs based on diagnoses accounting for the majority of the chronic conditions affecting children in the State which are likely to require significant medical interventions whether in number of interventions or costs.

Each State grant may be used without fiscal year limitation.

(2) REQUIREMENTS OF PROJECT.—

(A) IN GENERAL.—A project conducted in accordance with this subsection shall provide that the State in developing methods described in paragraph (1)(B), shall develop—

(i) adequate capitation rates specific to children with special health care needs; and

(ii) quality indicators, including system performance standards, care guidelines for specific populations, outcomes measures, and patient and parent satisfaction.

(B) APPROPRIATE REPRESENTATIVES.—The design and implementation of such a project shall include representatives of providers of services to such children and appropriate State agencies and programs.

(3) APPLICATIONS.—Each State desiring to conduct a demonstration project under this subsection, including projects which are statewide, substate, or regional in cooperation with a contiguous State or States, shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) REPORTS.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary annual and final reports in such form and containing such information as the Secretary may require.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001 for the purpose of conducting demonstration projects in accordance with this subsection.

SEC. 7195. CBO REPORTS.

(a) STUDY.—The Director of the Congressional Budget Office shall prepare an annual analysis of the effects of the amendments made by section 7191 on the health insurance status of children, individuals who have attained retirement age, and the disabled.

(b) REPORT.—The Director of the Congressional Budget Office shall submit a report of the results of the analysis required under subsection (a) by May 15 of each year to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives.

SEC. 7196. ADJUSTMENTS OF POOL AMOUNTS.

Notwithstanding any other provision in law, the Secretary shall adjust Medicaid pool amounts in fiscal year 1996, fiscal year 1997, fiscal year 2000, and fiscal year 2001 for each State by a proportionate amount such that total Medicaid pool amounts in fiscal year 1996, fiscal year 1997, fiscal year 2000, and fiscal year 2001 shall not exceed the amounts provided in section 2121(b)(1) of the Social Security Act as added by section 7191(a) of this Act—

(1) reduced by $1,900,000,000 in fiscal year 1996, and increased by a similar amount in the subsequent fiscal year; and

(2) reduced by $2,300,000,000 in fiscal year 2000, and increased by a similar amount in the subsequent fiscal year.

SEC. 7197. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(iii) (42 U.S.C. 1396r(e)(7)(B)(iii)) is amended to read as follows:

"(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.".

(2) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking "ANNUAL".

(3) The heading for section 1919(e)(7)(D)(i) (42 U.S.C. 1396r(e)(7)(D)(i)) is amended by striking "ANNUAL".

SEC. 7198. NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

SEC. 7199. MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicaid program under title XXI of such Act (in this section referred to as the "medicare and medicaid programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 10 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and medicaid programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the day before the date of the enactment of this Act), of any items and services provided to chronically-ill elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section.

(g) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicaid and medicare programs as a result of the demonstration project.

Subtitle C—Block Grants for Temporary Assistance for Needy Families

SEC. 7200. SHORT TITLE.

This subtitle may be cited as the "Work Opportunity Act of 1995".

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.

(2) 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 date of the repeal of such provisions.

(b) 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 NEEDY 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 a special emphasis on teenage pregnancies, and establish annual goals for preventing and reducing such pregnancies with respect to fiscal years 1996 through 2000.

"SEC. 402. 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 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 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) Safeguard and restrict the use and disclosure of information about individuals and families receiving assistance under the program.

"(F) Establish goals and take action 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(d), 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 engaged in work as determined under section 404(c),

in community service employment, with minimum hours per week and tasks to be determined by the State.

"(2) FAMILY ASSISTANCE PROGRAM STRATEGIC PLAN.—

"(A) IN GENERAL.—A single comprehensive State Family Assistance Program Strategic Plan (hereafter referred to in this section as the 'State Plan') describing a 3-year strategic plan for the statewide program designed to meet the State goals and reach the State benchmarks for program activities of the family assistance program.

"(B) CONTENTS OF THE STATE PLAN.—The State plan shall include:

"(i) STATE GOALS.—A description of the goals of the 3-year plan, including outcome related goals of and benchmarks for program activities of the family assistance program.

"(ii) CURRENT YEAR PLAN.—A description of how the goals and benchmarks described in clause (i) will be achieved, or how progress toward the goals and benchmarks will be achieved, during the fiscal year in which the plan has been submitted.

"(iii) PERFORMANCE INDICATORS.—A description of performance indicators to be used in measuring or assessing the relevant output service levels and outcomes of relevant program activities.

"(iv) EXTERNAL FACTORS.—Information on those key factors external to the program and beyond the control of the State that could significantly affect the attainment of the goals and benchmarks.

"(v) EVALUATION MECHANISMS.—Information on a mechanism for conducting program evaluation, to be used to compare actual results with the goals and benchmarks and designate the results on a scale ranging from highly successful to failing to reach the goals and benchmarks of the program.

"(vi) MINIMUM PARTICIPATION RATES.—Information on how the minimum participation rates specified in section 404 will be satisfied.

"(vii) ESTIMATE OF EXPENDITURES.—An estimate of the total amount of State or local expenditures under the program for the fiscal year in which the plan is submitted.

"(3) 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.

"(4) 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.

"(5) 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.

"(6) 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.

"(7) 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 ensuring that 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.

"(8) CERTIFICATION THAT REQUIRED REPORTS WILL BE SUBMITTED.—A certification by the chief executive officer of the State that the State shall provide the Secretary with any reports required under this part.

"(b) CERTIFICATION THAT THE STATE WILL PROVIDE ACCESS TO INDIANS.—

"(1) 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 Indians receive at least their equitable share of services under the State program, by requiring 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 assistance under the State program funded under this part.

"(2) STATE DESCRIBED.—For purposes of paragraph (1), a State described in this paragraph is 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.

"(c) 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.

"(2) COPY TO AUDITOR.—The State shall provide the approved entity conducting the audit under section 408 with a copy of the State plan submitted under this section.

"(d) 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—

"(i) has not attained 18 years of age; or

"(ii) 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); and

"(B) who resides with such individual's custodial parent or other caretaker relative.

"(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) IN ALASKA.—For purposes of making tribal family assistance grants under section 414 on behalf of Indians in Alaska, the term 'Indian tribe' shall mean 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.

"(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. 403. PAYMENTS TO STATES AND INDIAN TRIBES.

"(a) GRANT AMOUNT.—

"(1) IN GENERAL.—Subject to the provisions of paragraphs (3) and (5), section 407 (relating to penalties), and section 414(g), for each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Secretary shall pay—

"(A) each eligible State a grant in an amount equal to the State family assistance grant for the fiscal year, for each of fiscal years 1998 and 1999, the amount of the State's job placement performance bonus determined under subsection (f)(1) for the fiscal year, and for fiscal year 2000, the amount of the State's share of the performance bonus and high performance bonus determined under section 418 for such fiscal year; and

"(B) each Indian tribe with an approved tribal family assistance plan a tribal family assistance grant in accordance with section 414.

"(2) STATE FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—

"(i) BASIC AMOUNT.—For purposes of paragraph (1)(A), a State family assistance grant for any State for a fiscal year is an amount equal to the sum of—

"(I) the total amount of the Federal payments to the State under section 403 (other than Federal payments to the State described in subparagraphs (A), (B) and (C) of section 418(a)(2)) for fiscal year 1994 (as such section 403 was in effect during such fiscal year), plus

"(II) the total amount of the Federal payments to the State under subparagraphs (A), (B) and (C) of section 418(a)(2),

as such payments were reported by the State on February 14, 1995, and as adjusted under clause (ii).

"(ii) ADJUSTMENTS.—The payments described in clause (i) shall be—

"(I) reduced by the amount, if any, determined under subparagraph (B);

"(II) reduced by the amount determined under subsection (f)(2)(B);

"(III) reduced by the amount, if any, determined under subsection (i)(3)(C)(iii);

"(IV) for fiscal year 2000, reduced by the amount determined under section 418(a)(3); and

"(V) increased by the amount, if any, determined under subparagraph (D).

"(B) AMOUNT ATTRIBUTABLE TO CERTAIN INDIAN FAMILIES SERVED BY INDIAN TRIBES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount determined under this subparagraph is an amount equal to the Federal payments to the State under this section for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State under parts A and F of this title (as so in effect) for Indian families described in clause (ii).

"(ii) INDIAN FAMILIES DESCRIBED.—For purposes of clause (i), Indian families described in this clause are Indian families who reside in a service area or areas of an Indian tribe receiving a tribal family assistance grant under section 414.

"(C) NOTIFICATION.—Not later than 3 months prior to the payment of each quarterly installment of a State grant under subsection (a)(1), the Secretary shall notify the State of the amount of the reduction determined under subparagraph (B) with respect to the State.

"(D) AMOUNT ATTRIBUTABLE TO STATE PLAN AMENDMENTS.—

"(i) IN GENERAL.—For purposes of subparagraph (A) and subject to the limitation in clause (ii), the amount determined under this subparagraph is an amount equal to the Federal payment under section 403(a)(5) to the State for emergency assistance in fiscal year 1995 under any State plan amendment made under section 402 during fiscal year 1994 (as such sections were in effect before the date of the enactment of the Work Opportunity Act of 1995).

"(ii) LIMITATION.—Amounts made available under clause (i) to all States shall not exceed $800,000,000 for the 5-fiscal year period beginning in fiscal year 1996. If amounts available under this subparagraph are less than the total amount of emergency assistance payments referred to in clause (i), the amount payable to a State shall be equal to an amount which bears the same relationship to the total amount available under this clause as the State emergency assistance payment bears to the total amount of such payments.

"(iii) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subparagraph after fiscal year 2000.

"(3) APPROPRIATION.—

"(A) STATES.—There are authorized to be appropriated and there are appropriated $16,803,769,000 for each fiscal year described in paragraph (1) for the purpose of paying—

"(i) grants to States under paragraph (1)(A); and

"(ii) tribal family assistance grants under paragraph (1)(B).

"(B) ADJUSTMENT FOR QUALIFYING STATES.—For the purpose of increasing the amount of the grant payable to a State under paragraph (1) in accordance with paragraph (3), there are authorized to be appropriated and there are appropriated—

"(i) for fiscal year 1997, $85,860,000;

"(ii) for fiscal year 1998, $173,276,000;

"(iii) for fiscal year 1999, $263,468,000; and

"(iv) for fiscal year 2000, $355,310,000.

"(4) WELFARE PARTNERSHIP.—

"(A) IN GENERAL.—The amount of the grant otherwise determined under paragraph (1) for fiscal year 1997, 1998, 1999, or 2000 shall be reduced by the amount by which State expenditures under the State program funded under this part for the preceding fiscal year is less than 80 percent of historic State expenditures.

"(B) HISTORIC STATE EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'historic State expenditures' means expenditures by a State under parts A and F of title IV for fiscal year 1994, as in effect during such fiscal year.

"(ii) HOLD HARMLESS.—In no event shall the historic State expenditures applicable to any fiscal year exceed the amount which bears the same ratio to the amount determined under clause (i) as—

"(I) the grant amount otherwise determined under paragraph (1) for the preceding fiscal year (without regard to section 407), bears to

"(II) the total amount of Federal payments to the State under section 403 for fiscal year 1994 (as in effect during such fiscal year).

"(C) DETERMINATION OF STATE EXPENDITURES FOR PRECEDING FISCAL YEAR.—

"(i) IN GENERAL.—For purposes of this paragraph, the expenditures of a State under the State program funded under this part for a preceding fiscal year shall be equal to the sum of the State's expenditures under the program in the preceding fiscal year for—

"(I) cash assistance;

"(II) child care assistance;

"(III) education, job training, and work;

"(IV) administrative costs; and

"(V) any other use of funds allowable under section 403(b)(1).

"(ii) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—In determining State expenditures under clause (i), such expenditures shall not include funding supplanted by transfers from other State and local programs.

"(D) EXCLUSION OF FEDERAL AMOUNTS.—For purposes of this paragraph, State expenditures shall not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX of this Act or any successor to such program, and 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 this part.

"(b) USE OF GRANT.—

"(1) IN GENERAL.—Subject to this part, a State to which a grant is made under this section may use the grant—

"(A) in any manner that is reasonably calculated to accomplish the purpose of this part; or

"(B) in any manner that such State used amounts received under part A or F of this title, as such parts were in effect before October 1, 1995;

except that not more than 15 percent of the grant may be used for administrative purposes.

"(2) 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 operated under this part. In the case of amounts paid to the State that are set aside in accordance with section 418(a), the State may reserve such amounts for any fiscal year only for the purpose of providing without fiscal year limitation child care assistance under this part.

"(3) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under this section may use a portion of 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.

"(4) TRANSFERABILITY OF GRANT AMOUNTS.—A State may use up to 30 percent of amounts received from a grant under this part for a fiscal year to carry out State activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (relating to child care block grants).

"(c) TIMING OF PAYMENTS.—The Secretary shall pay each grant payable to a State under this section in quarterly installments.

"(d) FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a revolving loan fund which shall be known as the 'Federal Loan Fund for State Welfare Programs' (hereafter for purposes of this section referred to as the 'fund').

"(2) DEPOSITS INTO FUND.—

"(A) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, $1,700,000,000 are hereby appropriated for fiscal year 1996 for payment to the fund.

"(B) LOAN REPAYMENTS.—The Secretary shall deposit into the fund any principal or interest payment received with respect to a loan made under this subsection.

"(3) AVAILABILITY.—Amounts in the fund are authorized to remain available without fiscal year limitation for the purpose of making loans and receiving payments of principal and interest on such loans, in accordance with this subsection.

"(4) USE OF FUND.—

"(A) LOANS TO STATES.—The Secretary shall make loans from the fund to any loan-eligible State, as defined in subparagraph (D), for a period to maturity 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 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) MAXIMUM LOAN.—The cumulative amount of any loans made to a State under subparagraph (A) during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant under subsection (a)(2) for a fiscal year.

"(D) LOAN-ELIGIBLE STATE.—For purposes of subparagraph (A), a loan-eligible State is a State which has not had a penalty described in section 407(a)(1) imposed against it at any time prior to the loan being made.

"(5) LIMITATION ON USE OF LOAN.—A State shall use a loan received under this subsection only for any purpose for which grant amounts received by the State under subsection (a) may be used including—

"(A) welfare anti-fraud activities; and

"(B) 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 414.

"(e) SPECIAL RULE FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

"(1) 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 such Indian tribe in fiscal year 1994 under section 482(i) (as in effect during such fiscal year) for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(2) ELIGIBLE INDIAN TRIBE.—For purposes of paragraph (1), 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).

"(3) APPROPRIATION.—There are authorized to be appropriated and there are hereby appropriated $7,638,474 for each fiscal year described in paragraph (1) for the purpose of paying grants in accordance with such paragraph.

"(f) JOB PLACEMENT PERFORMANCE BONUS.—

"(1) IN GENERAL.—The job placement performance bonus determined with respect to a State and a fiscal year is an amount equal to the amount of the State's allocation of the job placement performance fund determined in accordance with the formula developed under paragraph (2).

"(2) ALLOCATION FORMULA; BONUS FUND.—

"(A) ALLOCATION FORMULA.—

"(i) IN GENERAL.—Not later than September 30, 1996, the Secretary of Health and Human Services shall develop and publish in the Federal Register a formula for allocating amounts in the job placement performance bonus fund to States based on the number of families that received assistance under a State program funded under this part in the preceding fiscal year that became ineligible for assistance under the State program as a result of unsubsidized employment during such year.

"(ii) FACTORS TO CONSIDER.—In developing the allocation formula under clause (i), the Secretary shall—

"(I) provide a greater financial bonus for individuals in families described in clause (i) who remain employed for greater periods of time or are at greater risk of long-term welfare dependency; and

"(II) take into account the unemployment conditions of each State or geographic area.

"(B) JOB PLACEMENT PERFORMANCE BONUS FUND.—

"(i) IN GENERAL.—The amount in the job placement performance bonus fund for a fiscal year shall be an amount equal to the applicable percentage of the amount appropriated under section 403(a)(2)(A)(i) for such fiscal year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(I), the applicable percentage shall be determined in accordance with the following table:

"For fiscal year:	The applicable percentage is:
1998	3
1999	4.

"(g) SECRETARY.—For purposes of this section, the term 'Secretary' means the Secretary of the Treasury.

"(h) 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' (hereafter 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 hereby appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as are necessary for payment to the Fund in a total amount not to exceed $1,000,000,000.

"(3) COMPUTATION OF GRANT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State in a fiscal year an amount equal to the Federal medical assistance percentage for such State for such fiscal year (as defined in section 2122(c)) of so much of the expenditures by the State in such year under the State program funded under this part as exceed the historic State expenditures for such 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 annual amount determined for such State under the State program funded under this part (without regard to this subsection) for such fiscal year.

"(C) METHOD OF COMPUTATION, PAYMENT, AND RECONCILIATION.—

"(i) METHOD OF COMPUTATION.—The method of computing and paying such amounts shall be as follows:

"(I) The Secretary of Health and Human Services shall estimate the amount to be paid to the State for each quarter under the provisions of subparagraph (A), such estimate to be based on a report filed by the State containing its estimate of the total sum to be expended in such quarter and such other information as the Secretary may find necessary.

"(II) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services.

"(ii) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to 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.

"(iii) METHOD OF RECONCILIATION.—If at the end of each fiscal year, the Secretary of Health and Human Services finds that a State which received amounts from the Fund in such fiscal year did not meet the maintenance of effort requirement under paragraph (5)(B) for such fiscal year, the Secretary shall reduce the State family assistance grant for such State for the succeeding fiscal year by such amounts.

"(4) USE OF GRANT.—

"(A) IN GENERAL.—An eligible State may use the grant—

"(i) in any manner that is reasonably calculated to accomplish the purpose of this part; or

"(ii) in any manner that such State used amounts received under part A or F of this title, as such parts were in effect before October 1, 1995.

"(B) REFUND OF UNUSED PORTION.—Any amount of a grant under this subsection not used during the fiscal year shall be returned to the Fund.

"(5) ELIGIBLE STATE.—

"(A) IN GENERAL.—For purposes of this subsection, a State is an eligible State with respect to 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 of an amount at least equal to 100 percent of the level of historic State expenditures for such State (as determined under subsection (a)(5)).

"(6) ANNUAL REPORTS.—The Secretary of the Treasury shall annually report to the Congress on the status of the Fund.

"SEC. 404. MANDATORY WORK REQUIREMENTS.

"(a) PARTICIPATION RATE REQUIREMENTS.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following tables for the fiscal year with respect to—

"(1) all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	The minimum participation rate for all families is:
1996	25
1997	30
1998	35
1999	40
2000 or thereafter	50;

and

"(2) with respect to 2-parent families receiving such assistance:

"If the fiscal year is:	The minimum participation rate is:
1996	60
1997 or 1998	75
1999 or thereafter	90.

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) FOR ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (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 sum of—

"(I) the number of all families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month;

"(II) the number of all families receiving assistance under the State program funded under this part that are subject in such month to a

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 the State program under this part during the previous 6-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

"(ii) the total number of all families receiving assistance under the State program funded under this part during the month that include an adult receiving assistance.

"(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, expressed as a percentage, is—

"(i) the total number of 2-parent families described in paragraph (1)(B)(i); divided by

"(ii) the total number of 2-parent families receiving assistance under the State program funded under this part during the month that include an adult.

"(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 before October 1, 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 Work Opportunity Act of 1995.

"(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 414. For purposes of the previous sentence, an individual who receives assistance under a tribal family assistance plan approved under section 414 shall be treated as being engaged in work if the individual is participating in work under standards that are comparable to State standards for being engaged in work.

"(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—For any fiscal year, a State may, at its option, not require an individual who is the parent or caretaker relative of a minor child who is less than 12 months of age to engage in work and may exclude such an individual from the determination of the minimum participation rate specified for such fiscal year in subsection (a).

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i)(I), an adult is engaged in work for a month in a fiscal year 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 20 hours per week of which are attributable to a work activity:

"If the month is in fiscal year:	The minimum average number of hours per week is:
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35.

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(A), an adult is engaged in work for a month in a fiscal year if the adult is participating in work for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to work activities described in paragraph (3).

"(3) DEFINITION OF WORK ACTIVITIES.—For purposes of this subsection, the term 'work activities' means—

"(A) unsubsidized employment;

"(B) subsidized employment;

"(C) on-the-job training;

"(D) community service programs;

"(E) job search (only for the first 4 weeks in which an individual is required to participate in work activities under this section); and

"(F) vocational educational training (not to exceed 12 months with respect to any individual).

"(4) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i)(I) and (2)(B)(i) of subsection (b), not more than 25 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) PENALTIES AGAINST INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an adult in a family receiving assistance under the State program funded under this part refuses to engage in work required under subsection (c)(1) or (c)(2), a State to which a grant is made under section 403 shall—

"(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the adult so refuses; or

"(B) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program based on a refusal of an adult to work if such adult is a single custodial parent caring for a child age 5 or under and has a demonstrated inability (as determined by the State) to obtain needed child care, for one or more of the following reasons:

"(A) Unavailability of appropriate child care within a reasonable distance of the individual's home or work site.

"(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(C) Unavailability of appropriate and affordable formal child care arrangements.

"(e) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under this part may fill a vacant employment position in order to engage in a work activity described in subsection (c)(3).

"(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (c)(3) shall be employed or assigned—

"(A) when any other individual is on layoff from the same or any substantially equivalent job; or

"(B) when the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

"(3) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

"(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

"(g) ENCOURAGEMENT TO PROVIDE CHILD CARE SERVICES.—An individual participating in a State community service program may be treated as being engaged in work under subsection (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.

"SEC. 405. REQUIREMENTS AND LIMITATIONS.

"(a) STATE REQUIRED TO ENTER INTO A PERSONAL RESPONSIBILITY CONTRACT WITH EACH FAMILY RECEIVING ASSISTANCE.—

"(1) IN GENERAL.—Each State to which a grant is made under section 403 shall require each family receiving assistance under the State program funded under this part to enter into—

"(A) a personal responsibility contract (as developed by the State) with the State; or

"(B) a limited benefit plan.

"(2) PERSONAL RESPONSIBILITY CONTRACT.—For purposes of this subsection, the term 'personal responsibility contract' means a binding contract between the State and each family receiving assistance under the State program funded under this part that—

"(A) outlines the steps each family and the State will take to get the family off of welfare and to become self-sufficient;

"(B) specifies a negotiated time-limited period of eligibility for receipt of assistance that is consistent with unique family circumstances and is based on a reasonable plan to facilitate the transition of the family to self-sufficiency;

"(C) provides that the family will automatically enter into a limited benefit plan if the family is out of compliance with the personal responsibility contract; and

"(D) provides that the contract shall be invalid if the State agency fails to comply with the contract.

"(3) LIMITED BENEFIT PLAN.—For purposes of this subsection, the term 'limited benefit plan' means a plan which provides for a reduced level of assistance and later termination of assistance to a family that has entered into the plan in accordance with a schedule to be determined by the State.

"(4) ASSESSMENT.—The State agency shall provide, through a case manager, an initial and thorough assessment of the skills, prior work experience, and employability of each parent for use in developing and negotiating a personal responsibility contract.

"(5) DISPUTE RESOLUTION.—The State agency described in section 402(a)(7) shall establish a dispute resolution procedure for disputes related to participation in the personal responsibility contract that provides the opportunity for a hearing.

"(b) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

"(1) MINOR CHILD EXCEPTION.—If an individual received assistance under the State program

operated under this part as a minor child in a needy family, any period during which such individual's family received assistance shall not be counted for purposes of applying the limitation described in paragraph (1) to an application for assistance under such program by such individual as the head of a household of a needy family with minor children.

"(2) HARDSHIP EXCEPTION.—

"(A) IN GENERAL.—The State may exempt a family 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 subparagraph (A) is in effect for a fiscal year shall not exceed 20 percent of the average 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 FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—An individual shall not be considered an eligible individual for the purposes of this part 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 XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(d) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(1) IN GENERAL.—An individual shall not be considered an eligible individual for the purposes of this part if such individual is—

"(A) 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

"(B) violating a condition of probation or parole imposed under Federal or State law.

"(2) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, a State 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 assistance under this part, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) such recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (1); 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 such officer's official duties.

"(e) STATE OPTION TO REQUIRE ASSIGNMENT OF SUPPORT.—At the option of the State, a State to which a grant is made under section 403 may provide that an individual applying for or receiving assistance under the State program funded under this part shall be required to assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance.

"(f) DENIAL OF ASSISTANCE FOR ABSENT CHILD.—Each State to which a grant is made under section 403—

"(1) may not use any part of the grant to provide assistance to a family with respect to any minor child who has been, or is expected by the caretaker relative in the family 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;

"(2) at the option of the State, may establish such good cause exceptions to paragraph (1) as the State considers appropriate if such exceptions are provided for in the State plan; and

"(3) shall provide that a caretaker relative shall not be considered an eligible individual for purposes of this part if the caretaker relative fails to notify the State agency of an absence of a minor child from the home for the period specified in or provided for under paragraph (1), by the end of the 5-day period that begins on the date that it becomes clear to the caretaker relative that the minor child will be absent for the period so specified or provided for in paragraph (1).

"SEC. 406. PROMOTING RESPONSIBLE PARENTING.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Marriage is the foundation of a successful society.

"(2) Marriage is an essential institution of a successful society which promotes the interests of children.

"(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the wellbeing of children.

"(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

"(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 are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present.

"(A)(i) The average monthly number of children receiving AFDC benefits—

"(I) was 3,300,000 in 1965;

"(II) was 6,200,000 in 1970;

"(III) was 7,400,000 in 1980; and

"(IV) was 9,300,000 in 1992.

"(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

"(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

"(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

"(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

"(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

"(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

"(7) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

"(A) 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 per household by 25 percent to 30 percent for 17-year olds.

"(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

"(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

"(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational 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.

"(8) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent). While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

"(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

"(B) Among single-parent families, nearly ½ of the mothers who never married received AFDC while only ⅛ of divorced mothers received AFDC.

"(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

"(D) Mothers under 20 years of age are at the greatest risk of bearing low birth-weight babies.

"(E) The younger the single parent mother, the less likely she is to finish high school.

"(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

"(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at $120,000,000,000.

"(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

"(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

"(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact two-parent families.

"(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

"(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

"(M) Of those 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, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

"(9) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of 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.—

"(A) REQUIREMENT.—Except as provided in paragraph (2), if a State provides assistance under the State program funded under this part to an individual described in subparagraph (B), such individual may only receive assistance under the program if such individual and the child of the individual 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.

"(B) INDIVIDUAL DESCRIBED.— For purposes of subparagraph (A), an individual described in this subparagraph is an individual who is—

"(i) under the age of 18; and

"(ii) not married and has a minor child in his or her care.

"(2) EXCEPTION.—

"(A) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.— In the case of an individual who is described in subparagraph (B), the State agency shall provide, or assist such 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 such individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that such parent and the child of such parent reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(B) INDIVIDUAL DESCRIBED.—For purposes of subparagraph (A), an individual is described in this subparagraph if the individual is described in paragraph (1)(B) and—

"(i) such individual has no parent, legal guardian or other appropriate adult relative as described in (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 such 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—

"(I) the individual or the individual's custodial minor child is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of such individual's own parent or legal guardian; or

"(II) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if such individual and such individual's minor child lived in the same residence with such 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 paragraph (1) with respect to such individual or minor child.

"(C) SECOND-CHANCE HOME.—For purposes of this paragraph, the term 'second-chance home' means an entity that provides individuals described in subparagraph (B) 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.

"(3) ASSISTANCE TO STATES IN PROVIDING OR LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING ARRANGEMENTS FOR UNMARRIED TEENAGE PARENTS.—

"(A) IN GENERAL.—For each of fiscal years 1996 through 2002, each State that provides assistance under the State program to individuals described in paragraph (1)(B) shall be entitled to receive a grant in an amount determined under subparagraph (B) for the purpose of providing or locating adult-supervised supportive living arrangements for individuals described in paragraph (1)(B) in accordance with this subsection.

"(B) AMOUNT DETERMINED.—

"(i) IN GENERAL.—The amount determined under this subparagraph is an amount that bears the same ratio to the amount specified under clause (ii) as the amount of the State family assistance grant for the State for such fiscal year (described in section 403(a)(2)) bears to the amount appropriated for such fiscal year in accordance with section 403(a)(4)(A).

"(ii) AMOUNT SPECIFIED.—The amount specified in this subparagraph is—

"(I) for fiscal year 1996, $25,000,000;

"(II) for fiscal year 1997, $25,000,000; and

"(III) for each of fiscal years 1998, 1999, 2000, 2001, and 2002, $20,000,000.

"(C) ASSISTANCE TO STATES IN PROVIDING OR LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING ARRANGEMENTS FOR UNMARRIED TEENAGE PARENTS.—There are authorized to be appropriated and there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums specified in subparagraph (B)(ii) for the purpose of paying grants to States in accordance with the provisions of this paragraph.

"(c) REQUIREMENT THAT TEENAGE PARENTS ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—If a State provides assistance under the State program funded under this part to an individual described in subsection (b)(1)(B) who has not successfully completed a high-school education (or its equivalent) and whose minor child is at least 12 weeks of age, the State shall not provide such individual with assistance under the program (or, at the option of the State, shall provide a reduced level of such assistance) if the individual does not participate in—

"(1) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(2) an alternative educational or training program that has been approved by the State.

"(d) STATE OPTION TO DENY ASSISTANCE IN CERTAIN SITUATIONS.—Nothing in this subsection shall be construed to restrict the authority of a State to exercise its option to limit assistance under this part to individuals if such limitation is not inconsistent with the provisions of this part.

"SEC. 407. STATE PENALTIES.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the Secretary shall deduct from the grant otherwise payable under section 403 the following penalties:

"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—If an audit conducted under section 408 finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, then the Secretary shall reduce the amount of the grant otherwise payable to the State under such section for the immediately succeeding fiscal year quarter by the amount so used. If the State does not prove to the satisfaction of the Secretary that such unlawful expenditure was not made by the State in intentional violation of the requirements of this part, then the Secretary shall impose an additional penalty of 5 percent of such grant (determined without regard to this section).

"(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 409 for the fiscal year, the Secretary shall reduce by 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.

"(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 has failed to satisfy the minimum participation rates specified in section 404(a) for a fiscal year, the Secretary shall 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 by—

"(i) in the first year in which the State fails to satisfy such rates, 5 percent; and

"(ii) in subsequent years in which the State fails to satisfy such rates, the percent reduction determined under this subparagraph (if any) in the preceding year, increased by 5 percent.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) on the basis of 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 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.

"(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 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.

"(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 403(d) within the period of maturity applicable to such loan, plus any interest owed on such loan, then the Secretary shall reduce the amount of the grant otherwise payable to the State under section 403 for the immediately succeeding fiscal year quarter by the outstanding loan amount, plus the interest owed on such outstanding amount. The Secretary may not forgive any outstanding loan amount nor interest owed thereon.

"(b) REQUIREMENTS.—

"(1) LIMITATION ON AMOUNT OF PENALTY.—

"(A) 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.

"(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 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.

"(2) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under subsection (a) shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of providing assistance under the State program under this part.

"(3) 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 failing to comply with a requirement for which a penalty is imposed under such subsection.

"(c) 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 to the Secretary of the Treasury and the Secretary of the Treasury shall reduce the amount paid to the State under section 403 by such amount.

"(d) 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, 1996;

whichever is later.

"(2) MISUSE OF FUNDS.—The penalties described in subsection (a)(1) shall apply with respect to fiscal years beginning on or after October 1, 1995.

"SEC. 408. 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 approved by the chief executive officer of the State; and

"(3) is independent of any agency administering activities funded 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.

"(d) ADDITIONAL ACCOUNTING REQUIREMENTS.—The provisions of chapter 75 of title 31, United States Code, shall apply to the audit requirements of this section.

"SEC. 409. 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 15th day of the first month of each calendar quarter, each State to which a grant is made under section 410(h) shall submit to the Secretary the data described in paragraphs (2) and (3) with respect to families described in paragraph (4).

"(2) DISAGGREGATED DATA DESCRIBED.—The data described in this paragraph with respect to families described in paragraph (4) is a sample of monthly disaggregated case record data containing the following:

"(A) The age of the adults and children (including pregnant women) in each family.

"(B) The marital and familial status of each member of the family (including whether the family is a 2-parent family and whether a child is living with an adult relative other than a parent).

"(C) The gender, educational level, work experience, and race of the head of each family.

"(D) The health status 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).

"(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.

"(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 received each time 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 engage in 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 is 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 adults in each family.

"(C) The number of children in each family.

"(D) The number of families for which assistance has been terminated because of employment, sanctions, or time limits.

"(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

"(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 provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of each State's program performance. The Secretary is authorized to develop and implement procedures for verifying the quality of data submitted by the States.

"(c) 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—

"(1) the total amount and percentage of the Federal funds paid to the State under this part for the fiscal year that are used to cover administrative costs or overhead; and

"(2) the total amount of State funds that are used to cover such costs or overhead.

"(d) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY 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 on the program 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.

"(g) REPORT ON CHILD CARE.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for child care under the program under this part, along with a description of the types of child care provided, including child care provided in the case of a family that—

"(1) has ceased to receive assistance under this part because of employment; or

"(2) is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

"(h) REPORT ON TRANSITIONAL SERVICES.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

"(i) SECRETARY'S REPORT ON DATA PROCESSING.—

"(1) IN GENERAL.—Not later than 6 months after the date of the enactment of the Work Opportunity Act of 1995, the Secretary shall prepare and submit to the Congress a report on—

"(A) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under this part (whether in effect before or after October 1, 1995); and

"(B) what would be required to establish a system capable of—

"(i) tracking participants in public programs over time; and

"(ii) checking case records of the States to determine whether individuals are participating in public programs in 2 or more States.

"(2) PREFERRED CONTENTS.—The report required by paragraph (1) should include—

"(A) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in paragraph (1)(B); and

"(B) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

"(j) 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 404(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;

"(3) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

"(4) the characteristics of each State program funded under this part; and

"(5) the trends in employment and earnings of needy families with minor children.

"SEC. 410. 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.

"(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-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 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 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 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 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 paid under section 403 based on the following ranking factors (developed with information reported by the State under section 406(f)):

"(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) STUDY ON ALTERNATIVE OUTCOMES MEASURES.—

"(1) 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 a preliminary assessment of the job placement performance bonus established under section 403(f).

"(2) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study described in paragraph (1).

"(g) 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.

"(h) ADDITIONAL AMOUNT FOR STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated for each fiscal year described in section 403(a)(1) an additional $20,000,000 for the purpose of paying—

"(A) the Federal share of any State-initiated study approved under subsection (g);

"(B) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to part A of title IV of this Act, that are in effect or approved under section 1115 as of October 1, 1995, and are continued after such date;

"(C) the cost of conducting the research described in subsection (a); and

"(D) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

"(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. 411. 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 the 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 births, 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, the Secretary of the Treasury shall pay to the Bureau of the Census $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out subsection (a).

"SEC. 412. 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 subtitle D of title I and subtitles C, D, E, F, and G of title VII of the Balanced Budget Reconciliation Act of 1995 shall not apply with respect to the State before the expiration (determined 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 403, 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 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. 413. STATE AND COUNTY DEMONSTRATION PROGRAMS.

"(a) NO LIMITATION OF STATE DEMONSTRATION PROJECTS.—Nothing in this part shall be construed as limiting a State's ability to conduct demonstration projects for the purpose of identifying innovative or effective program designs in 1 or more political subdivisions of the State: Provided, That such State contains more than one county with a population of greater than 500,000.

"(b) COUNTY WELFARE DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Agriculture shall jointly enter into negotiations with all counties having a population greater than 500,000 desiring to conduct a demonstration project described in paragraph (2) for the purpose of establishing appropriate rules to govern the establishment and operation of such project.

"(2) DEMONSTRATION PROJECT DESCRIBED.—The demonstration project described in this paragraph shall provide that—

"(A) a county participating in the demonstration project shall have the authority and duty to administer the operation of the program described under this part as if the county were considered a State for the purpose of this part;

"(B) the State in which the county participating in the demonstration project is located shall pass through directly to the county the portion of the grant received by the State under section 403 which the State determines is attributable to the residents of such county; and

"(C) the duration of the project shall be for 5 years.

"(3) COMMENCEMENT OF PROJECT.—After the conclusion of the negotiations described in paragraph (2), 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.

"(4) REPORT.—Not later then 6 months after the termination of 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—

"(A) a description of the demonstration project;

"(B) the rules negotiated with respect to the project; and

"(C) the innovations (if any) that the county was able to initiate under the project.

"(5) ELIGIBLE COUNTY.—A county may participate in a demonstration project under this subsection if the county is—

"(A) a county that is already administering the welfare program under this part;

"(B) represents less than 25 percent of the State's total welfare caseload.

"SEC. 414. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) PURPOSE.—The purpose of this section is—

"(1) to strengthen and enhance the control and flexibility of local governments over local programs; and

"(2) in recognition of the principles contained in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

"(A) to provide direct Federal funding to Indian tribes for the tribal administration of the program funded under this part; or

"(B) to enable Indian tribes to enter into agreements, contracts, or compacts with intertribal consortia, States, or other entities for the administration of such program on behalf of the Indian tribe.

"(b) GRANT AMOUNTS FOR INDIAN TRIBES.—

"(1) 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 plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under paragraph (2).

"(2) AMOUNT DETERMINED.—

"(A) IN GENERAL.—The amount determined under this paragraph 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 part A and part F of this title (as so in effect) in such year for Indian families residing in the service area or areas identified by the Indian tribe in subsection (c)(1)(C).

"(B) USE OF STATE SUBMITTED DATA.—

"(i) IN GENERAL.—The Secretary shall use State submitted data to make each determination under subparagraph (A).

"(ii) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under clause (i), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under subparagraph (A) and the Secretary may consider such information before making such determination.

"(c) 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 the purposes of 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

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(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 plan by the participating Indian tribes of an intertribal consortium.

"(d) 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 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 404(d).

"(e) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(f) 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.).

"(g) TRIBAL PENALTIES.—For the purpose of ensuring the proper use of tribal family assistance grants, the following provisions shall apply to an Indian tribe with an approved tribal assistance plan:

"(1) The provisions of subsections (a)(1), (a)(6), and (b) of section 407, in the same manner as such subsections apply to a State.

"(2) The provisions of section 407(a)(3), except that such subsection shall be applied by substituting 'the minimum requirements established under subsection (d) of section 414' for 'the minimum participation rates specified in section 404'.

"(h) DATA COLLECTION AND REPORTING.—For the purpose of ensuring uniformity in data collection, section 409 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(i) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use such grant to operate a program in accordance with the requirements applicable to the program of the State of Alaska funded under this part.

"(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. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

"The programs under this part and part D of this title 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.

"The Secretary of Health and Human Services and the Secretary of the Treasury may not 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. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—The Secretary shall notify the chief executive officer of a State of any adverse decision or action under this part, including any decision with respect to the State's plan or the imposition of a penalty under section 407.

"(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—

"(1) 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 (hereafter referred to in this section 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 thereof, 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. 418. AMOUNTS FOR CHILD CARE.

"(a) CHILD CARE ALLOCATION.—

"(1) IN GENERAL.—From the amount appropriated under section 403(a)(4)(A) for a fiscal year, the Secretary shall set aside an amount equal to the total amount of the Federal payments for fiscal year 1994 to States under section—

"(A) 402(g)(3)(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) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as so in effect), in the case of a State with respect to which section 1108 of this Act applies; and

"(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act (as so in effect).

"(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 section—

"(A) 402(g)(3)(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) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as so in effect), in the case of a State with respect to which section 1108 of this Act applies; and

"(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act (as so in effect).

"(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) ADDITIONAL APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated, $3,000,000,000 to be distributed to the States during the 5-fiscal year period beginning in fiscal year 1996 for the provision of child care assistance.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—The Secretary shall use amounts made available under paragraph (1) to make grants to States. The total amount of grants awarded to a State under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State for fiscal year 1994 under section 403(n) (as such section was in effect before October 1, 1995) for child care services pursuant to section 402(i) (as so in effect) as such amount relates to the total amount of such Federal payments to all States for such fiscal year.

"(B) FISCAL YEAR 2000.—With respect to the last quarter of fiscal year 2000, if the Secretary determines that any allotment to a State under this subsection will not be used by such State for carrying out the purpose for which the allotment is available, the Secretary shall make such allotment available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional allotments for carrying out such purpose. Such available allotments shall be reallocated to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.

"(3) AMOUNT OF FUNDS.—The Secretary shall pay to each eligible State in a fiscal year an amount equal to the Federal medical assistance percentage for such State for such fiscal year (as defined in section 2122(c)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subsection (a) for such year and the amount of State expenditures in fiscal year 1994 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of subsection (a)(1).

"(4) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subsection after fiscal year 2000.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) STATE OPTION.—For purposes of section 402(a)(1)(B), a State may, at its option, not require a single parent with a child under the age of 6 to participate in work for more than an average of 20 hours per week during a month and may count such parent as being engaged in work for a month for purposes of section 404(c)(1) if such parent participates in work for an average of 20 hours per week during such month.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care services to any child.

"SEC. 419. ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Notwithstanding section 658T of the Child Care and Development Block Grant Act of 1990, the State agency specified in section 402(a)(7) 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 that a State agency administering a plan approved under this part has notified the Secretary that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, after review by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved to collect the past-due legally enforceable debt; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the 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.".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) 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)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 421 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(2) Paragraph (10) of section 6103(l) of such Code is amended—

(A) by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)"; and

(B) by adding at the end of subparagraph (B) the following new sentence: "Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.".

(3) The matter preceding subparagraph (A) of section 6103(p)(4) of such Code is amended—

(A) by striking "(5), (10)" and inserting "(5)"; and

(B) by striking "(9), or (12)" and inserting "(9), (10), or (12)".

(4) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 421, 464, or 1137 of the Social Security Act.".

SEC. 7202. LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.

No funds provided directly to institutions or organizations to provide services and administer programs described in section 7202(a)(2) and programs established or modified under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title shall be expended for sectarian worship or instruction. This section shall not apply to financial assistance provided to or on behalf of beneficiaries of assistance in the form of certificates, vouchers, or other forms of disbursement, if such beneficiary may choose where such assistance shall be redeemed.

SEC. 7203. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce (hereafter in this section referred to as the "Secretary"), in carrying out the provisions of section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (hereafter in this section referred to as the "Bureau") to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) EXPANDED CENSUS QUESTION.—In carrying out the provisions of subsection (a), the Secretary shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

SEC. 7204. STUDY OF EFFECT OF WELFARE REFORM ON GRANDPARENTS AS PRIMARY CAREGIVERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study evaluating the impact of amendments made by subtitle D of title I of this Act, this subtitle, and subtitles D, E, F, and G of this title on grandparents who have assumed the responsibility of providing care to their grandchildren. In such study, the Secretary shall identify barriers to participation in public programs including inconsistent policies, standards, and definitions used by programs and agencies in the administration of medicaid, assistance under a State program funded under part A of title IV of the Social Security Act, child support enforcement, and foster care programs on grandparents who have assumed the care-giving role for children whose natural parents are unable to provide care.

(b) REPORT.—Not later than December 31, 1997, the Secretary shall submit a report setting forth the findings of the study described in subsection (a) to the Committee on Ways and Means and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Finance, the Committee on Labor and Human Resources, and the Special Committee on Aging of the Senate. The report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.

SEC. 7205. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall in accordance with the provisions of this section develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester.

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof 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 Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner 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 imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) 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 Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

SEC. 7206. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

(1) in the heading, by striking "demonstration";

(2) by striking "demonstration" each place it appears;

(3) in subsection (a), by striking "in each of fiscal years" and all that follows through "10" and inserting "shall enter into agreements with";

(4) in subsection (b)(3), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act in the State in which the individual resides";

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(B) in paragraph (2), by striking "aid to families with dependent children under title IV of such Act" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(6) in subsection (d), by striking "job opportunities and basic skills training program (as provided for under title IV of the Social Security Act" and inserting "the State program funded under part A of title IV of the Social Security Act"; and

(7) by striking subsections (e) through (g) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed $25,000,000 for any fiscal year.".

SEC. 7207. DEMONSTRATION PROJECTS FOR SCHOOL UTILIZATION.

(a) FINDINGS.—It is the goal of the United States that children grow to be self-sufficient citizens, that parents equip themselves to provide the best parental care and guidance to their children, and that welfare dependency, crime, and the deterioration of neighborhoods be eliminated. It will contribute to these goals to increase the level of parents' involvement in their children's school and other activities, to increase the amount of time parents spend with or in close proximity to their children, to increase the portion of the day and night when children are in a safe and healthy environment and not exposed to unfavorable influences, to increase the opportunities for children to participate in safe, healthy, and enjoyable extracurricular and organized developmental and recreational activities, and to make more accessible the opportunities for parents, especially those dependent on public assistance, to increase and enhance their parenting and living skills. All of these contributions can be facilitated by establishing the neighborhood public school as a focal point for such activities and by extending the hours of the day in which its facilities are available for such activities.

(b) GRANTS.—The Secretary of Education (hereafter in this section referred to as the "Secretary") shall make demonstration grants as provided in subsection (c) to States to enable them to increase the number of hours during each day when existing public school facilities are available for use for the purposes set forth in subsection (d).

(c) SELECTION OF STATES.—The Secretary shall make grants to not more than 5 States for demonstration projects in accordance with this section. Each State shall select the number and location of schools based on the amount of funds it deems necessary for a school properly to achieve the goals of this program. The schools selected must have a significant percentage of students receiving benefits under part A of title IV of the Social Security Act. No more than 2 percent of the grant to any State shall be used for administrative expenses of any kind by any entity (except that none of the activities set forth in paragraphs (1) and (2) of subsection (d) shall be considered an administrative activity the expenses for which are limited by this subsection).

(d) USE OF FUNDS.—The grants made under subsection (b), in order that school facilities can be more fully utilized, shall be used to provide funding for, among other things—

(1) extending the length of the school day, expanding the scope of student programs offered before and after pre-existing school hours, enabling volunteers and parents or professionals paid from other sources to teach, tutor, coach, organize, advise, or monitor students before and after pre-existing school hours, and providing security, supplies, utilities, and janitorial services before and after pre-existing school hours for these programs,

(2) making 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, parental 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 during hours those facilities are already available for student or community use.

(e) APPLICATIONS.—

(1) IN GENERAL.—The Governor of each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application in such manner and containing such information as the Secretary may require. The Secretary shall actively encourage States to submit such applications.

(2) APPROVAL.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve such applications in a number of States to be determined by the Secretary (not to exceed 5), taking into account the overall funding levels available under this section.

(f) DURATION.—A demonstration project under this section shall be conducted for not more than 4 years plus an additional time period of up to 12 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(g) EVALUATION PLAN.—

(1) STANDARDS.—Not later than 3 months after the date of the enactment of this section, the Secretary shall develop standards for evaluating 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 an evaluation of all demonstration projects, which evaluations shall be included in the appropriate State's annual and final reports to the Secretary under subsection (h)(1).

(2) 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 (1)) to the Secretary not later than 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 demonstration project until the Secretary approves such evaluation plan.

(h) REPORTS.—

(1) STATE.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary annual and final reports in accordance with the State's evaluation plan under subsection (g)(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.—

(1) GRANTS.—There are authorized to be appropriated for grants under subsection (b) for each of fiscal years 1996, 1997, 1998, 1999, and 2000, $10,000,000.

(2) ADMINISTRATION.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for the administration of this section by the Secretary, including development of standards and evaluation of all demonstration projects by an independent expert entity under subsection (g)(1).

SEC. 7208. CORRECTIVE COMPLIANCE PLAN.

(a) IN GENERAL.—

(1) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, prior to assessing a penalty against a State under any program established or modified under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title, 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 violations for which such penalty would be assessed and how the State will insure continuing compliance with the requirements of such program.

(2) 60-DAY 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.

(3) 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 subsection (a) 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.

SEC. 7209. PARENTAL RESPONSIBILITY CONTRACTS.

(a) ASSESSMENT.—Notwithstanding any other provision of, or amendment made by, this subtitle, each State to which a grant is made under section 403 of the Social Security Act shall provide that the State agency, through a case manager, shall make an initial assessment of the education level, parenting skills, and history of parenting activities and involvement of each parent who is applying for financial assistance under the State plan funded under part A of title IV of the Social Security Act.

(b) PARENTAL RESPONSIBILITY CONTRACTS.—On the basis of the assessment made under subsection (a) with respect to each parent applicant, the case manager, in consultation with the parent applicant (hereafter in this subsection referred to as the "client") and, if possible, the client's spouse if one is present, shall develop a parental responsibility contract for the client, which meets the following requirements:

(1) Sets forth the obligations of the client, including all of the following the case manager believes are within the ability and capacity of the client, are not incompatible with the employment or school activities of the client, and are not inconsistent with each other in the client's case or with the well being of the client's children:

(A) Attend school, if necessary, and maintain certain grades and attendance.

(B) Keep school-age children of the client in school.

(C) Immunize children of the client.

(D) Attend parenting and money management classes.

(E) Participate in parent and teacher associations and other activities intended to involve parents in their children's school activities and in the affairs of their children's school.

(F) Attend school activities with their children where attendance or participation by both children and parents is appropriate.

(G) Undergo appropriate substance abuse treatment counseling.

(H) Any other appropriate activity, at the option of the State.

(2) Provides that the client shall accept any bona fide offer of unsubsidized full-time employment, unless the client has good cause for not doing so.

(c) PENALTIES FOR NONCOMPLIANCE WITH PARENTAL RESPONSIBILITY CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the following penalties shall apply:

(A) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND ACTS OF NON-COMPLIANCE.—The State plan described in section 402 of the Social Security Act shall provide that the amount of assistance otherwise payable under part A of title IV of such Act to a family that includes a client who, with respect to a parental responsibility contract signed by the client, commits an act of noncompliance without good cause, shall be reduced by—

(i) 33 percent for the 1st such act of noncompliance; or

(ii) 66 percent for the 2nd such act of noncompliance.

(B) DENIAL OF ASSISTANCE FOR 3RD AND SUBSEQUENT ACTS OF NONCOMPLIANCE.—The State shall provide that in the case of the 3rd or subsequent such act of noncompliance, the family of which the client is a member shall not thereafter be eligible for assistance under this part.

(C) LENGTH OF PENALTIES.—The penalty for an act of noncompliance shall not exceed the greater of—

(i) in the case of—

(I) the 1st act of noncompliance, 1 month,

(II) the 2nd act of noncompliance, 3 months, or

(III) the 3rd or subsequent act of noncompliance, 6 months; or

(ii) the period ending with the cessation of such act of noncompliance.

(D) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—The State plan shall provide that if an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment without good cause, such act of noncompliance shall be considered a 3rd or subsequent act of noncompliance.

(2) STATE FLEXIBILITY.—The State plan may provide for different penalties than those specified in paragraph (1).

SEC. 7210. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATE FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any funds received by a State under the provisions of law specified in subsection (b) shall be expended only in accordance with the laws and procedures applicable to expenditures of the State's own revenues, including appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) PROVISIONS OF LAW.—The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance to needy families).

(2) The section of the Food Stamp Act of 1977 relating to the optional State food assistance block grants.

(3) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

SEC. 7211. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(8)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(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) AMENDMENT TO PART B OF TITLE IV.—Section 422(b)(2) (42 U.S.C. 622(b)(2)) is amended by striking "under the State plan approved" and inserting "under the State program funded.".

(c) 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 "402(a)(26) or".

(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 a 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)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid" and inserting "assistance under a State program funded".

(11) Section 454 (42 U.S.C. 654)) is amended—

(A) in paragraph (5)(A)—

(i) by striking "under section 402(a)(26)"; and

(ii) 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

(B) in paragraph (6)(D), by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(12) Section 456 (42 U.S.C. 656) is amended—

(A) in subsection (a)(1), by striking "under section 402(a)(26)"; and

(B) by striking subsection (b) and inserting the following:

"(b) A debt which is a support obligation enforceable under this title is not released by a discharge in bankruptcy under title 11, United States Code.".

(13) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26) or".

(14) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(15) 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".

(d) AMENDMENTS TO PART E OF TITLE IV.—

(1) Section 470 (42 U.S.C. 670) is amended—

(A) by striking "would be" and inserting "would have been"; and

(B) by inserting "(as such plan was in effect on June 1, 1995)" after "part A".

(2) Section 471(17) (42 U.S.C. 671(17)) is amended by striking "plans approved under parts A and D" and inserting "program funded under part A and plan approved under part D".

(3) Section 472(a) (42 U.S.C. 672(a)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "would meet" and inserting "would have met";

(ii) by inserting "(as such sections were in effect on June 1, 1995)" after "407"; and

(iii) by inserting "(as so in effect)" after "406(a)"; and

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by inserting "would have" after "(A)"; and

(II) by inserting "(as in effect on June 1, 1995)" after "section 402"; and

(ii) in subparagraph (B)(ii), by inserting "(as in effect on June 1, 1995)" after "406(a)".

(4) Section 472(h) (42 U.S.C. 672(h)) is amended to read as follows:

"(h)(1) For purposes of the medicaid program under title XIX of this Act or any successor to such program, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and shall be deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a minor child in a needy family under a State program funded under part A and shall be deemed to be a recipient of assistance under such part.

"(2) For purposes of paragraph (1), 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 the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(5) Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting "(as such sections were in effect on June 1, 1995)" after "407";

(ii) by inserting "(as so in effect)" after "specified in section 406(a)"; and

(iii) by inserting "(as such section was in effect on June 1, 1995)" after "403";

(B) in subparagraph (B)(i)—

(i) by inserting "would have" after "(B)(i)"; and

(ii) by inserting "(as in effect on June 1, 1995)" after "section 402"; and

(C) in subparagraph (B)(ii)(II), by inserting "(as in effect on June 1, 1995)" after "406(a)".

(6) Section 473(b) (42 U.S.C. 673(b)) is amended to read as follows:

"(b)(1) For purposes of the medicaid program under title XIX of this Act or any successor to such program, any child who is described in paragraph (3) shall be deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and shall be deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

"(2) For purposes of title XX, any child who is described in paragraph (3) shall be deemed to be a minor child in a needy family under a State program funded under part A and shall be deemed to be a recipient of assistance under such part.

"(3) A child described in this paragraph is any child—

"(A)(i) who is a child described in subsection (a)(2), and

"(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or nor adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(B) with respect to whom foster care maintenance payments are being made under section 472.

"(4) For purposes of paragraphs (1) and (2), 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 the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(e) 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".

(f) AMENDMENTS TO TITLE XI.—

(1) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(2) 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".

(3) 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,".

(4) 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".

(5) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(6) Section 1133(a) (42 U.S.C. 1320b-3(a)) is amended by striking "or part A of title IV,".

(7) Section 1136 (42 U.S.C. 1320b-6) is repealed.

(8) 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.

(9) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1)—

(I) by inserting "(or paid, in the case of part A of title IV)" after "certified"; and

(II) by striking "or, in the case of" and all that follows through "section 403(k)";

(ii) in paragraph (1)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter;" and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $100,039,000 with respect to fiscal year 1996 and each fiscal year thereafter;";

(iii) in paragraph (2)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter;" and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $3,489,000 with respect to fiscal year 1996 and each fiscal year thereafter;"; and

(iv) in paragraph (3)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter." and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $4,593,000 with respect to fiscal year 1996 and each fiscal year thereafter."; and

(B) in subsection (d), by striking "(exclusive of any amounts" and all that follows through "section 403(k) applies)".

(g) 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".

(h) 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".

(i) 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. 7212. 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)(5)—

(A) 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) 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 receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(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".

(h) Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (d)(2)(A)(ii)(II)—

(A) by striking "program for aid to families with dependent children established" and inserting "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";

(2) in subsection (e)(4)(A), by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(3) in subsection (f)(1)(C)(iii), by striking "aid to families with dependent children," and inserting "State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and with the".

SEC. 7213. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (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";

(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";

(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)(xi), 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.".

(l) The Internal Revenue Code of 1986 is amended—

(1) in section 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), 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), 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), by striking "(relating to aid to families with dependent children)"; and

(5) in section 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—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(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 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. 7214. 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 providing 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. 7215. 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 in effect on September 30, 1995 (for purposes of this paragraph, the "State AFDC program") until June 30, 1996.

(B) REDUCTION OF FISCAL YEAR 1996 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; 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.

(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 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, if such individual also has an alcoholism or drug addiction condition (as determined by the Commissioner of Social Security), the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Commissioner shall include, in the individual's notification of such eligibility, a notice that such alcoholism or drug addiction condition accompanies 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.".

(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)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(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 SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION.—

(1) IN GENERAL.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION

"SEC. 1636. (a) In the case of any individual eligible for benefits under this title by reason of disability who is identified as having a substance abuse condition, the Commissioner of Social Security shall make provision for referral of 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.).

"(b) No individual described in subsection (a) shall be an eligible individual or eligible spouse for purposes of this title if such individual refuses without good cause to accept the referred services described under subsection (a).

(2) CONFORMING AMENDMENT.—Section 1614(a)(4) (42 U.S.C. 1382c(a)(4)) is amended by inserting after the second sentence the following new sentence: "For purposes of the preceding sentence, any individual identified by the Commissioner as having a substance abuse condition shall seek and complete appropriate treatment as needed.".

(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 "—" and all that follows through "(A)" the 1st place it appears;

(B) by striking "and" the 3rd place it appears;

(C) by striking subparagraph (B);

(D) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(E) 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.

SEC. 7252. 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.

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 10-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 IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.".

SEC. 7253. 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 7251(c)(1), is amended by inserting after paragraph (2) the following new paragraph:

"(3) A person shall not be 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 1631(e) (42 U.S.C. 1383(e)) 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 agency with the name of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is 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;

"(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 recipient is within the officer's official duties.".

SEC. 7254. EFFECTIVE DATES; APPLICATION TO CURRENT RECIPIENTS.

(a) SECTION 7251.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by section 7251 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 section 7251, 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, shall reapply to the Commissioner of Social Security.

(ii) 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 clause (i) pursuant to the procedures of such title.

(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE REQUIREMENTS.—The amendments made by section 7251(b) 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.

(b) OTHER AMENDMENTS.—The amendments made by sections 7252 and 7253 shall take effect on the date of the enactment of this Act.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

SEC. 7261. 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.''; 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/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) 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) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) 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 amendments made by subsection (a) or (b). 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 amendments made by subsections (a) and (b), 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.

SEC. 7262. 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 7261(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, which is unlikely to improve, at the option of the Commissioner).

''(II) A parent or guardian 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.''.

(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 have attained the age of 18 years.

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.''.

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(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 parent or guardian 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.''.

(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. 7263. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking ''and'' at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting ''; and'', and by adding after subclause (IV) the following new subclause:

''(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 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(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

''(C)(i) In any case where payment is made to a representative payee of an individual or spouse, 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 reviewing a sample of such contemporaneous 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(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking ''Clause (i)'' and inserting ''Subclauses (II) and (III) of clause (i)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following new clause:

''(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

''(I) education and job skills training;

''(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

''(III) appropriate therapy and rehabilitation.''.

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b) is amended—

(A) by striking ''and'' at the end of paragraph (9),

(B) by striking the period at the end of paragraph (10) the first place it appears and inserting a semicolon,

(C) by redesignating paragraph (10) the second place it appears as paragraph (11) and striking the period at the end of such paragraph and inserting ''; and'', and

(D) by inserting after paragraph (11), as so redesignated, the following new paragraph:

''(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).''.

(3) EFFECTIVE DATE.—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 OF REPORT.—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) a comprehensive description of the program;

"(2) historical and current data on allowances and denials, including number of applications and allowance rates at initial determinations, reconsiderations, administrative law judge hearings, council of appeals hearings, and Federal court appeal hearings;

"(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, work disabled adults, and children);

"(4) projections of future number of recipients and program costs, through at least 25 years;

"(5) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

"(6) data on the utilization of work incentives;

"(7) detailed information on administrative and other program operation costs;

"(8) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

"(9) State supplementation program operations;

"(10) a historical summary of statutory changes to this title; and

"(11) such other information as the Commissioner deems useful.

"(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.".

SEC. 7272. IMPROVEMENTS TO DISABILITY EVALUATION.

(a) REQUEST FOR COMMENTS.—

(1) IN GENERAL.—Not later than 60 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) additions to conditions which should be presumptively disabling at birth or ages 0 through 3 years;

(B) specific changes in individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations;

(C) improvements in regulations regarding determinations based on regulations providing for medical and functional equivalence to such Listing of Impairments, and consideration of multiple impairments; and

(D) any other changes to the disability determination procedures.

(2) REVIEW AND REGULATORY ACTION.—The Commissioner of Social Security shall promptly review such comments and issue any regulations implementing any necessary changes not later than 18 months after the date of the enactment of this Act.

SEC. 7273. STUDY OF DISABILITY DETERMINATION PROCESS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and from funds otherwise appropriated, the Commissioner of Social Security shall make arrangements with the National Academy of Sciences, or other independent entity, to conduct a study of the disability determination process under titles II and XVI of the Social Security Act. This study shall be undertaken in consultation with professionals representing appropriate disciplines.

(b) STUDY COMPONENTS.—The study described in subsection (a) shall include—

(1) an initial phase examining the appropriateness of, and making recommendations regarding—

(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 of performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) a second phase, which may be concurrent with the initial phase, examining the validity, reliability, and consistency with current scientific knowledge of the standards and individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations, and of related evaluation procedures as promulgated by the Commissioner of Social Security; and

(3) such other issues as the applicable entity considers appropriate.

(c) REPORTS AND REGULATIONS.—

(1) REPORTS.—The Commissioner of Social Security shall request the applicable entity, to submit an interim report and a final report of the findings and recommendations resulting from the study described in this section to the President and the Congress not later than 18 months and 24 months, respectively, from the date of the contract for such study, and such additional reports as the Commissioner deems appropriate after consultation with the applicable entity.

(2) REGULATIONS.—The Commissioner of Social Security shall review both the interim and final reports, and shall issue regulations implementing any necessary changes following each report.

SEC. 7274. 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. 7281. ESTABLISHMENT.

There is established a commission to 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 otherwise appropriated for the Social Security Administration.

SEC. 7282. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall develop and carry out a comprehensive study of all matters related to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities. In particular, the Commission shall study the disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act.

(b) MATTERS STUDIED.—The Commission shall prepare an inventory of Federal programs serving individuals with disabilities, and shall examine—

(1) trends and projections regarding the size and characteristics of the population of individuals with disabilities, and the implications of such analyses for program planning;

(2) the feasibility and design of performance standards for the Nation's disability programs;

(3) the adequacy of Federal efforts in rehabilitation research and training, and opportunities to improve the lives of individuals with disabilities through all manners of scientific and engineering research; and

(4) the adequacy of policy research available to the Federal Government, and what actions might be undertaken to improve the quality and scope of such research.

(c) RECOMMENDATIONS.—The Commission shall submit to the appropriate committees of the Congress and to the President recommendations and, as appropriate, proposals for legislation, regarding—

(1) which (if any) Federal disability programs should be eliminated or augmented;

(2) what new Federal disability programs (if any) should be established;

(3) the suitability of the organization and location of disability programs within the Federal Government;

(4) other actions the Federal Government should take to prevent disabilities and disadvantages associated with disabilities; and

(5) such other matters as the Commission considers appropriate.

SEC. 7283. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) five shall be appointed by the President, of whom not more than 3 shall be of the same major political party;

(B) three shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) three shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience. In appointing individuals as members of the Commission, the President and the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall seek to ensure that the membership of the Commission reflects the diversity of individuals with disabilities in the United States.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve on the Commission as an ex officio member of the Commission to advise and oversee the methodology and approach of the study of the Commission.

(c) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—No officer or employee of any government shall be appointed under subsection (a).

(d) DEADLINE FOR APPOINTMENT; TERM OF APPOINTMENT.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this Act. The members shall serve on the Commission for the life of the Commission.

(e) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson, but not less than 4 times each year during the life of the Commission.

(f) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

(h) CONTINUATION OF MEMBERSHIP.—If a member of the Commission becomes an officer or employee of any government after appointment to the Commission, the individual may continue as a member until a successor member is appointed.

(i) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(j) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(k) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 7284. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(1) APPOINTMENT.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.

(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

(c) APPLICABILITY OF 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, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) 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 in writing when necessary.

(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 Commission, at any time and place the Commission is 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 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 furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—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) INTERIM 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 and to the Congress. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for legislative and administrative action, based on the activities of the Commission.

(b) FINAL REPORT.—Not later than the date on which the Commission terminates, the Commission shall submit to the Congress and to the President a final report containing—

(1) a detailed statement of final findings, conclusions, and recommendations; and

(2) an assessment of the extent to which recommendations of the Commission included in the interim report under subsection (a) have been implemented.

(c) PRINTING 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 the report available to the public upon request.

SEC. 7287. TERMINATION.

The Commission shall terminate on the date that is 2 years after 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. 7301. 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 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 (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) by striking paragraph (6) and inserting the following new subparagraph:

"(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) 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 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 on the same basis 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(a)(1).''.

(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. 7302. 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.—The State shall, with regard to amounts collected which represent amounts owed for the current month, distribute the amounts so collected to the family.

"(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 amount so collected to the family to the extent necessary to satisfy any support arrearages with respect to the family 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 TO THE EXTENT PAYMENTS EXCEED ASSISTANCE RECEIVED.—In the case of arrearages of support obligations with respect to the family that were assigned to the State making or receiving the collection, as a condition of receiving assistance from the State, and which accrued before or while the family received such assistance, the State may retain all or a part of the State share and if the State does so retain, shall retain and pay to the Federal Government the Federal share of amounts so collected, to the extent the amount so retained does not exceed the amount of assistance provided to the family by the State.

"(iii) DISTRIBUTION OF THE REMAINDER 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, distribute 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 assigned 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.

"(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 before October 1, 1995); or

"(B) benefits under the State plan approved under part E of this title.

"(2) FEDERAL SHARE.—The term 'Federal share' means, with respect to an amount collected by the State to satisfy a support obligation owed to a family for a time period—

"(A) the greatest Federal medical assistance percentage in effect for the State for fiscal year 1995 or any succeeding fiscal year; or

"(B) if support is not owed to the family for any month for which the family received aid to families with dependent children under the State plan approved under part A of this title (as in effect before October 1, 1995), the Federal reimbursement percentage for the fiscal year in which the time period occurs.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any State for which subparagraph (B) does not apply; or

"(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, with respect to a fiscal year—

"(A) the total amount paid to the State under section 403 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 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) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by inserting after the semicolon "and"; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective on October 1, 1999.

(2) EARLIER EFFECTIVE DATE FOR RULES RELATING TO DISTRIBUTION OF SUPPORT COLLECTED FOR FAMILIES RECEIVING ASSISTANCE.—Section 457(a)(1) of the Social Security Act, as added by the amendment made by subsection (a), shall become effective on October 1, 1995.

(3) SPECIAL RULE.—A State may elect to have the amendment made by subsection (a) become effective on a date earlier than October 1, 1999, which date shall coincide with the operation of the single statewide automated data processing and information retrieval system required by section 454A of the Social Security Act (as added by section 7344(a)(2)) and the State disbursement unit required by section 454B of the Social Security Act (as added by section 7312(b)), and the existence of State requirements for assignment of support as a condition of eligibility for assistance under part A of the Social Security Act (as added by subtitle C).

(4) CLERICAL AMENDMENTS.—The amendments made by subsection (b) shall become effective on October 1, 1995.

SEC. 7303. RIGHTS TO NOTIFICATION AND HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 7302(b), is amended by inserting after paragraph (11) the following new paragraph:

"(12) establish procedures to provide that—

"(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination; and

"(B) individuals applying for or receiving services under this part have access to a fair hearing or other formal complaint procedure that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order);".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 7304. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—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 "; 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. 7311. STATE CASE REGISTRY.

Section 454A, as added by section 7344(a)(2), 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.

"(f) 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 MEDICAID 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. 7312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b) and 7304(a), 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) private or governmental contractors reporting directly to the State agency, to—

"(i) provide automated monitoring and enforcement of 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 7344(a)(2), 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. The Secretary must agree 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.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 7344(a)(2) and as amended by section 7311, 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)) where 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. 7313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a) and 7312(a), 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"; 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.—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.

"(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.—The term 'employer' includes—

"(i) any governmental entity, and

"(ii) any labor organization.

"(C) 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(f)(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 it 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.—The report required by paragraph (1) with respect to an employee shall be made not later than the later of—

"(A) 30 days after the date the employer hires the employee; or

"(B) in the case of an employer that reports by magnetic or electronic means, the 1st business day of the week following the date on which the employee 1st receives wages or other compensation from the employer.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W-4 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 October 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 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 2 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)" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State 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)".

SEC. 7314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(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 absent parent to whom paragraph (1) applies—

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the absent 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) 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.";

(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.".

(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 absent 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 through electronic means and without advance notice to the obligor.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 7315. 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) 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. 7316. 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 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 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), in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)".

(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 visitation rights";

(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 visitation rights, or any agent of such court;";

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) the absent parent, only with regard to a court order against a resident parent for child visitation rights.".

(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) 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) TECHNICAL 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 subsection:

"(h)(1) 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) 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)(1) 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) 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) 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) 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)(1)(A) 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) 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) 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) 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) 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) 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)(1) 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) 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, compiling, or maintaining such information).

"(3) 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) 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) 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) 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 no report shall 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.".

(f) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—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;".

(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.".

SEC. 7317. 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 7315, is amended by adding at the end the following new paragraph:

"(13) 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, certificate, 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. 7321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f)(1) In order to satisfy section 454(20)(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 611(a)(1) of the Uniform Interstate Family Support Act:

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) 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 exercising or seeks to exercise jurisdiction to modify the order, the conditions of section 204 are met to the same extent as required for proceedings 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 proved) upon persons in the State by any means acceptable in any State which is the initiating or responding State in the proceeding.".

SEC. 7322. 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";

(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. 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:

"(14) 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 caseload 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. 7324. 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"; and

(3) by adding at the end the following new paragraph:

"(11) not later than 60 days after the date of the enactment of the Balance Budget Reconciliation Act of 1995, establish an advisory committee, which shall include State directors of programs under this part, and not later than June 30, 1996, after consultation with the advisory committee, promulgate forms to be used by States in interstate cases for—

"(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. 7325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 7314, 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) The procedures specified in this subsection are the following:

"(1) 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) to take the following actions:

"(A) To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) 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) 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) 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) In cases where support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 2136, 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) To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(G) 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—

"(I) 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) For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, 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) 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) 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) 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.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 7344(a)(2) and as amended by sections 7311 and 7312(c), 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. 7331. 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)(A)(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 21 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 21 years was then in effect in the State.

"(B)(i) 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) 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 (where the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is contested, upon request and advance payment by the contestant.

"(C)(i) Procedures for a simple civil process for voluntarily acknowledging paternity under 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 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause and other exceptions as the State shall establish and taking into account the best interests of the child.

"(iii)(I) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II)(aa) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) 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.

"(iv) Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under 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.

"(D)(i) 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 order issued in a judicial or administrative 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.

"(ii) Procedures under which—

"(I) a voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days;

"(II) after the 60-day period referred to in subclause (I), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon

the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown; and

"(III) judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(E) Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent" before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 7332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 7333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.

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) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XXI is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing 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 under part A and the State agency administering the State program under title XXI of each such determination, and if noncooperation is determined, the basis therefore.".

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

SEC. 7341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Section 458 (42 U.S.C. 658) is amended—

(A) in subsection (a), by striking "aid to families" and all through the end period, and inserting "assistance under a program funded under part A, and regardless of the economic circumstances of their parents, the Secretary shall, from the support collected which would otherwise represent the reimbursement to the Federal government under section 457, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1999, an incentive payment in an amount determined under subsections (b) and (c).";

(B) by striking subsections (b) and (c) and inserting the following:

"(b)(1) Not later than 60 days after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, the Secretary shall establish a committee which shall include State directors of programs under this part and which shall develop for the Secretary's approval a formula for the distribution of incentive payments to the States.

"(2) The formula developed and approved under paragraph (1)—

"(A) shall result in a percentage of the collections described in subsection (a) being distributed to each State based on the State's comparative performance in the following areas and any other areas approved by the Secretary under this subsection:

"(i) The IV-D paternity establishment percentage, as defined in section 452(g)(2).

"(ii) The percentage of cases with a support order with respect to which services are being provided under the State plan approved under this part.

"(iii) The percentage of cases with a support order in which child support is paid with respect to which services are being so provided.

"(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 program;

"(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 percentage;

"(v) 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 from 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 term 'State' which does not include any area within the jurisdiction of an Indian tribal government; and

"(E) shall use a definition of the term 'Statewide paternity establishment percentage' to mean with respect to a State and a fiscal year—

"(i) the total number of children in the State who were born out of wedlock, who have not attained 1 year of age and for whom paternity is established or acknowledged during the fiscal year; divided by

"(ii) the total number of children born out of wedlock in the State during the fiscal year.

"(c) The total amount of the incentives payment made by the Secretary to a State in a fiscal year shall not exceed 90 percent of the total amounts expended by such State during such year for the operation of the plan approved under section 454, less payments to the State pursuant to section 455 for such year.";

(2) in subsection (d), by striking ", and any amounts" through "shall be excluded".

(b) PAYMENTS TO POLITICAL SUBDIVISIONS.—Section 454(22) (42 U.S.C. 654(22)) is amended by inserting before the semicolon the following: ", but a political subdivision shall not be entitled to receive, and the State may retain, any amount in excess of the amount the political subdivision expends on the State program under this part, less the amount equal to the percentage of that expenditure paid by the Secretary under section 455".

(c) CALCULATION OF IV-D PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended—

(A) in the matter preceding subparagraph (A) by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,"; and

(B) in each of subparagraphs (A) and (B), by striking "75" and inserting "90".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)—

(A) by striking "paternity establishment percentage" and inserting "IV-D paternity establishment percentage"; and

(B) by striking "(or all States, as the case may be)".

(3) 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) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B) (as so redesignated)—

(i) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(ii) by inserting "and securing support" before the period.

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act, except to the extent provided in subparagraph (B).

(B) EXCEPTION.—Section 458 of the Social Security Act, as in effect before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 2000.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on and after the date of the enactment of this Act.

SEC. 7342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV-D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 7343. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(a), 7313(a), and 7333, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 7344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for 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 (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 454 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 administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV-D paternity establishment percentage and overall performance in 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).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(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; and

"(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).

"(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.

"(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.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 7304(a)(2) and 7312(a)(1), is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Balanced Budget Reconciliation Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 7344(a)(3) of the Balanced Budget Reconciliation Act of 1995.".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(ii) by striking "so much of"; and

(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and

(B) by adding at the end the following new paragraph:

"(3)(A) 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 finds are for a system meeting 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 the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 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.

"(ii) The percentage specified in this clause is the greater of—

"(I) 80 percent; or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $260,000,000 in the aggregate under section 455(a)(3) of the Social Security Act for fiscal years 1996, 1997, 1998, 1999, and 2000.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3) of such Act for fiscal years 1996, 1997, 1998, 1999, and 2000 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100-485) is repealed.

SEC. 7345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each 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 the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 7316(f), is amended by adding at the end the following new subsection:

"(n) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 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 the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of 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:

"(i) 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;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (I) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 2136" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year:";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 7351. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is 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 needed or under paragraph (1)(B) that improvements to guideline models are needed, 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) matters generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) how to define income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments;

(3) the appropriate treatment of cases in which either or both parents have financial obligations to more than 1 family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(4) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(5) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(6) the appropriate duration of support by 1 or both parents, including—

(A) support (including shared support) for postsecondary or vocational education; and

(B) support for disabled adult children;

(7) procedures to automatically adjust child support orders periodically to address changed economic circumstances, including changes in the Consumer Price Index or either parent's income and expenses in particular cases;

(8) procedures to help noncustodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such grievances are resolved; and

(9) 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; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed not later than January 15, 1997, of which—

(i) 2 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;

(ii) 2 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

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—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, 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 sentences 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 1886(e)(6) of the Social Security Act shall apply 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 and a final assessment of issues relating to such a proposed 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 466(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, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(B)(i) 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 in accordance with the guidelines; or

"(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, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(ii) 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 State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(D)(i) The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(ii) The State shall provide notice to the parents subject to such an order informing them of their 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. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of 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 confidential, will be used solely for a 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.

"(5) 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 award.".

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 to a 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 which obtains 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) CIVIL 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 which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action 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 with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "depository 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)); 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 of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)).

(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. 3401).

(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. 7361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—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. 7362. 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 remuneration 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 1st-come, 1st-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 (except any compensation paid by the Secretary to a member of the Armed Forces who is in receipt of retired or retainer pay if the member has waived a portion of the retired pay of the member in order to receive the compensation); and

"(iii) workers' 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.—As used in this section:

"(1) 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 periodic payments of funds for the support and maintenance of a child or children with respect to which the individual has such an obligation, and (subject to and in accordance with State law) includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children, 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.

"(3) ALIMONY.—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. Such term does not include 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 of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court 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 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 (h)(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"; 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 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(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".

(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. 7363. 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 7362(c)(4), 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: "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 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. 7364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 7321, is amended by adding at the end the following new subsection:

"(g) 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. 7365. WORK REQUIREMENT FOR PERSONS OWING CHILD SUPPORT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7301(a), 7315, 7317(a), and 7323, is amended by adding at the end the following new paragraph:

"(15) Procedures requiring the State, in any case in which an individual owes support with respect to a child receiving services under this part, to seek a court order or administrative order that requires the individual to—

"(A) pay such support in accordance with a plan approved by the court; or

"(B) if the individual is not working and is not incapacitated, participate in work activities (including, at State option, work activities as defined in section 482) as the court deems appropriate.".

SEC. 7366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 7316 and 7345(b), is amended by adding at the end the following new subsection:

"(o) 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. 7367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7)(A) 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 absent parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent 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.".

SEC. 7368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by an absent 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. 7369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, and 7365, is amended by adding at the end the following new paragraph:

"(16) 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. 7370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 7345, is amended by adding at the end the following new subsection:

"(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 7370(b) of the Balanced Budget Reconciliation Act of 1995.

"(2) The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(b), 7313(a), 7333, and 7343(a), is amended—

(A) by striking "and" at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting "; and"; and

(C) by adding after paragraph (30) the following new paragraph:

"(31) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(k) (concerning denial of passports), determinations that individuals owe arrearages of child support in an amount exceeding $5,000, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an 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 documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State shall, upon certification by the Secretary of Health and Human Services transmitted under section 452(k) of the Social Security Act, refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 7371. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

The Secretary of State is authorized to negotiate reciprocal agreements with foreign nations on behalf of the States, territories, and possessions of the United States regarding the international enforcement of child support obligations and designating the Department of Health and Human Services as the central authority for such enforcement.

SEC. 7372. DENIAL OF MEANS-TESTED FEDERAL BENEFITS TO NONCUSTODIAL PARENTS WHO ARE DELINQUENT IN PAYING CHILD SUPPORT.

(a) IN GENERAL.—Notwithstanding any other provision of law, a non-custodial parent who is more then 2 months delinquent in paying child support shall not be eligible to receive any means-tested Federal benefits.

(b) EXCEPTION.—

(1) IN GENERAL.—Subsection (a) shall not apply to an unemployed non-custodial parent who is more then 2 months delinquent in paying child support if such parent—

(A) enters into a schedule of repayment for past due child support with the entity that issued the underlying child support order; and

(B) meets all of the terms of repayment specified in the schedule of repayment as enforced by the appropriate disbursing entity.

(2) 2-YEAR EXCLUSION.—(A) A non-custodial parent who becomes delinquent in child support a second time or any subsequent time shall not be eligible to receive any means-tested Federal benefits for a 2-year period beginning on the date that such parent failed to meet such terms.

(B) At the end of that two-year period, paragraph (A) shall once again apply to that individual.

(c) MEANS-TESTED FEDERAL BENEFITS.— For purposes of this section, the term "means-tested Federal benefits" means benefits under any program of assistance, funded in whole or in part, by the Federal Government, for which eligibility for benefits is based on need.

SEC. 7373. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) CHILD SUPPORT ENFORCEMENT AGREEMENTS.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(b), 9313(a), 7333, 7343(a), and 7370(a)(2) is amended—

(1) by striking "and" at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32) provide that a State that receives funding pursuant to section 429 and that has within its borders Indian country (as defined in section 1151 of title 18, United States Code) shall, through the State administering agency, make reasonable efforts to enter into cooperative agreements with an Indian tribe or tribal organization (as defined in paragraphs (1) and (2) of section 428(c)), if the Indian tribe or tribal organization demonstrates that such tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to establish paternity, establish and enforce support orders, and to enter support orders in accordance with child support guidelines established by such tribe or organization, under which the State and tribe or organization shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funding collected pursuant to the functions performed by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute such funding in accordance with such agreement.".

(b) DIRECT FEDERAL FUNDING TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Section 455 (42 U.S.C. 655) is amended by adding at the end the following new subsection:

"(b) The Secretary may, in appropriate cases, make direct payments under this part to an Indian tribe or tribal organization which has an approved child support enforcement plan under this title. In determining whether such payments are appropriate, the Secretary shall, at a minimum, consider whether services are being provided to eligible Indian recipients by the State agency through an agreement entered into pursuant to section 454(32). The Secretary shall provide for an appropriate adjustment to the State allotment under this section to take into account any payments made under this subsection to Indian tribes or tribal organizations located within such State.".

(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—Paragraph (7) of section 454 (42 U.S.C. 654) is amended by inserting "and Indian tribes or tribal organizations (as defined in section 450(b) of title 25, United States Code)" after "law enforcement officials".

SEC. 7374. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, and 7369, is amended by adding at the end the following new paragraph:

"(17) Procedures under which the State agency shall enter into agreements with financial institutions doing business within the State to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which such financial institutions are required to provide for each calendar quarter the name, record address, social security number, and other identifying information for each absent parent identified by the State who maintains an account at such institution and, in response to a notice of lien or levy, to encumber or surrender, as the case may be, assets held by such institution on behalf of any absent parent who is subject to a child support lien pursuant to paragraph (4). For purposes of this paragraph, the term 'financial institution' means Federal and State commercial savings banks, including savings and loan associations and cooperative banks, Federal and State chartered credit unions, benefit associations, insurance companies, safe deposit companies, money-market mutual funds, and any similar entity authorized to do business in the State, and 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. 7375. ENFORCEMENT OF ORDERS AGAINST PATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, 7369, and 7374, is amended by adding at the end the following new paragraph:

"(18) Procedures under which any child support order enforced under this part with respect to a child of minor parents, if the mother of such child is receiving assistance under the State grant under part A, shall be enforceable, jointly and severally, against the paternal grandparents of such child.".

SEC. 7376. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT.

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

CHAPTER 8—MEDICAL SUPPORT

SEC. 7378. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(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. 7379. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, 7369, 7374, and 7376, is amended by adding at the end the following new paragraph:

"(19) Procedures under which all child support orders enforced under this part shall include a provision for the health care coverage of the child, and in the case in which an absent 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 absent parent's health plan, unless the absent parent contests the notice.".

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONRESIDENTIAL 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. 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 absent 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 nonprofit 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. 7391. 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 subtitle.

Subtitle F—Noncitizens

SEC. 7401. STATE OPTION TO PROHIBIT ASSISTANCE FOR CERTAIN ALIENS.

(a) IN GENERAL.—A State may, at its option, prohibit the use of any Federal funds received for the provision of assistance under any means-tested public assistance program for any individual who is a noncitizen of the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any individual who is described in subclause (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i)); and

(2) any program described in section 7402(f)(2).

SEC. 7402. DEEMED INCOME REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), 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 (b) shall, notwithstanding any other provision of law, 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, or in order to enable such individual lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such individual.

(2) The income and resources of the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such individual, or for a period of 5 years beginning on the date such individual was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) LIMITATION ON MEASUREMENT OF DEEMED INCOME AND RESOURCES.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored individual shall not exceed the amount actually provided, for a period beginning on the date of such determination and lasting 12 months or, if the address of the sponsor is unknown to the sponsored individual on the date of such determination, for 12 months after the address becomes known to the sponsored individual or to the agency (which shall inform such individual within 7 days).

(2) DETERMINATION.—The determination described in this paragraph is a determination by an agency that a sponsored individual would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the individual's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(e) 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, or in order to enable such individual lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such individual.

(B) The income and resources of the sponsor's spouse.

(3) LENGTH OF DEEMED INCOME PERIOD.—Subject to an exception equivalent to subsection (d), a State or local government may impose a requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such individual, or for a period of 5 years beginning on the date such individual was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(f) APPLICABILITY OF SECTION.—

(1) INDIVIDUALS.—The provisions of this section shall not apply to the eligibility of any individual who is described in subclause (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i)).

(2) PROGRAMS.—The provisions of this section shall not apply to eligibility for—

(A) emergency medical services under title XXI of the Social Security Act;

(B) short-term 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) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases if the Secretary of Health and Human Services determines that such testing and treatment is necessary;

(F) the Head Start program (42 U.S.C. 9801); and

"(G) programs 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 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, safety, or public health.

(g) CONFORMING AMENDMENTS.—

(1) Section 1621 (42 U.S.C. 1382j) is repealed.

(2) Section 1614(f)(3) (42 U.S.C. 1382c(f)(3)) is amended by striking "section 1621" and inserting "section 7402 of the Balanced Budget Reconciliation Act of 1995".

SEC. 7403. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) ENFORCEABILITY.—No affidavit of support may be relied upon 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) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(1) which is legally enforceable against the sponsor by the sponsored individual, by the Federal Government, and by any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) which provides any benefit under a program described in subsection (d)(2), but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters; and

(3) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d)(4).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State, district, territory, 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)(1).

(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 sponsored individual has received any benefit described in section 241(a)(5)(C) of the Immigration and Nationality Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—Upon notification that a sponsored individual has received any benefit under a program described in paragraph (2), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph include the following:

(A) Assistance under a State program funded under part A of title IV of the Social Security Act.

(B) The medicaid program under title XXI of the Social Security Act.

(C) The food stamp program under the Food Stamp Act of 1977.

(D) The supplemental security income program under title XVI of the Social Security Act.

(E) Any State general assistance program.

(F) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs specified in section 7402(f)(2).

(3) REGULATIONS.—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 by certified mail to the sponsor's last known address.

(4) 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 against the sponsor pursuant to the affidavit of support.

(5) 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.

(6) 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 (2).

(e) 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 subsection (d)(2) if the sponsored individual received public assistance while residing in the State.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "sponsor" means an individual who—

(A) is a United States citizen or national 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 of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 200 percent of the poverty line for the individual and the individual's family (including the sponsored individual), through evidence that shall include a copy of the individual's Federal income tax returns for his or her most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are true copies of such returns;

(2) the term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

(3) the term "qualifying quarter" means a three-month period 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) not received need-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 FOR SSI BENEFITS.

(a) IN GENERAL.—Paragraph (1) of section 1614(a) (42 U.S.C. 1382c(a)) is amended—

(1) in subparagraph (B)(i), by striking "either" and all that follows through ", or" 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 243(h) of such Act for a period of not more than 5 years 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 any State (or any territory or possession of the United States), who is 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 or who is the spouse or unmarried dependent child of such veteran; or (V) a noncitizen who has worked sufficient calendar quarters of coverage to be a fully insured individual for benefits under title II, or"; and

(2) by adding at the end the following new flush sentence:

"For purposes of subparagraph (B)(i)(IV), the determination of whether a noncitizen is lawfully present in the United States shall be made in accordance with regulations of the Attorney General. A noncitizen shall not be considered to be lawfully present in the United States for purposes of this title merely because the noncitizen may be considered to be permanently residing in the United States under color of law for purposes of any particular program.".

(b) 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.

(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 subsection (a), such amendments shall apply with respect to the benefits of such individual 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 shall reapply to the Commissioner of Social Security.

(ii) 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 clause (i) pursuant to the procedures of such title XVI.

SEC. 7405. TREATMENT OF NONCITIZENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a noncitizen who has entered into the United States on or after the date of the enactment of this Act shall not, during the 5-year period beginning on the date of such noncitizen's entry into the United States, be eligible to receive any benefits under any program of assistance provided, or funded, in whole or in part, by the Federal Government, for which eligibility for benefits is based on need.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any individual who is described in subclause (II), (III), (IV), or (V) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i));

(2) any program described in section 7402(f)(2); and

(3) payments for foster care and adoption assistance under part E of title IV of the Social Security Act for a child who would, in the absence of this section, 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 noncitizens described in subsection (a).

SEC. 7406. INFORMATION REPORTING.

(a) TITLE IV OF THE SOCIAL SECURITY ACT.—Section 405 of the Social Security Act, as added by section 7201(b), is amended by adding at the end the following new subsection:

"(g) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.—Each State to which a grant is made under section 403 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 State knows is unlawfully in the United States.".

(b) SSI.—Section 1631(e) (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103-296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

(2) by adding at the end the following new paragraph:

"(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the 'Service'), furnish the 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 agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.".

(c) HOUSING PROGRAMS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

"(a) NOTICE TO IMMIGRATION AND NATURALIZATION SERVICE OF ILLEGAL ALIENS.—Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this subsection referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.".

SEC. 7407. PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO CERTAIN PERSONS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), Federal benefits shall not be paid or provided to any person who is not a person lawfully present within the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following benefits:

(1) Emergency medical services under title XXI of the Social Security Act.

(2) Short-term 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) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment of such disease.

(c) DEFINITIONS.—For purposes of this section:

(1) FEDERAL BENEFIT.—The term "Federal benefit" means—

(A) the issuance of 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, Social Security, health, disability, public housing, post-secondary education, food stamps, unemployment benefit, or any other similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States.

(2) PERSON LAWFULLY PRESENT WITHIN THE UNITED STATES.—The term "person lawfully present within the United States" means a person who, at the time the person applies for, receives, or attempts to receive a Federal benefit, is a United States citizen, a permanent resident alien, an alien whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), an asylee, a refugee, a parolee who has been paroled for a period of at least 1 year, a national, or a national of the United States for purposes of the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(d) STATE OBLIGATION.—Notwithstanding any other provision of law, a State that administers a program that provides a Federal benefit (described in subsection (c)(1)) or provides State benefits pursuant to such a program shall not be required to provide such benefit to a person who is not a person lawfully present within the United States (as defined in subsection (c)(2)) through a State agency or with appropriated funds of such State.

(e) VERIFICATION OF ELIGIBILITY.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal benefit, including a benefit described in subsection (b), is a person lawfully present within the United States and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(2) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in paragraph (1) are adopted, a State that administers a program that provides a Federal benefit described in such paragraph shall have in effect a verification system that complies with the regulations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

(f) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle G—Additional Provisions Relating to Welfare Reform

CHAPTER 1—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

SEC. 7411. REDUCTIONS.

(a) DEFINITIONS.—As used in this section:

(1) APPROPRIATE EFFECTIVE DATE.—The term "appropriate effective date", used with respect to a Department referred to in this section, means the date on which all provisions of subtitle D of title I, this subtitle, or subtitles C, D, E, and F of this title that the Department is required to carry out, and amendments and repeals made by such titles and subtitles to provisions of Federal law that the Department is required to carry out, are effective.

(2) COVERED ACTIVITY.—The term "covered activity", used with respect to a Department referred to in this section, means an activity that the Department is required to carry out under—

(A) a provision of subtitle D of title I, this subtitle, or subtitle C, D, E, or F of this title; or

(B) a provision of Federal law that is amended or repealed by any such title or subtitles.

(b) REPORTS.—

(1) CONTENTS.—Not later than December 31, 1995, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant committees described in paragraph (3) a report containing—

(A) the determinations described in subsection (c);

(B) appropriate documentation in support of such determinations; and

(C) a description of the methodology used in making such determinations.

(2) SECRETARY.—The Secretaries referred to in this paragraph are—

(A) the Secretary of Agriculture;

(B) the Secretary of Education;

(C) the Secretary of Labor;

(D) the Secretary of Housing and Urban Development; and

(E) the Secretary of Health and Human Services.

(3) RELEVANT COMMITTEES.—The relevant Committees described in this paragraph are the following:

(A) With respect to each Secretary described in paragraph (2), the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(B) With respect to the Secretary of Agriculture, the Committee on Agriculture and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) With respect to the Secretary of Education, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(D) With respect to the Secretary of Labor, the Committee on Economic and Educational Opportunities of the House of Representatives and

the Committee on Labor and Human Resources of the Senate.

(E) With respect to the Secretary of Housing and Urban Development, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(F) With respect to the Secretary of Health and Human Services, the Committee on Economic and Educational Opportunities of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

(4) REPORT ON CHANGES.—Not later than December 31, 1996, and each December 31 thereafter, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant Committees described in paragraph (3), a report concerning 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, 1995, each Secretary referred to in subsection (b)(2) shall determine—

(1) the number of full-time equivalent positions required by the Department headed by such Secretary to carry out the covered activities of the Department, as of the day before the date of enactment of this Act;

(2) the number of such positions required by the Department to carry out the activities, as of the appropriate effective date for 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 appropriate effective date for the Department involved, each Secretary referred to in subsection (b)(2) shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the number of positions of personnel of the Department by at least the difference referred to in subsection (c)(3).

(e) CONSISTENCY.—

(1) EDUCATION.—The Secretary of Education shall carry out this section in a manner that enables the Secretary to meet 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.

(3) 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 and section 7412.

(f) CALCULATION.—In determining, under subsection (c), the number of full-time equivalent positions required by a Department to carry out a covered activity, a Secretary referred to in subsection (b)(2), shall include the number of such positions occupied by personnel carrying out program functions or other functions (including budgetary, legislative, administrative, planning, evaluation, and legal functions) related to the activity.

(g) GENERAL ACCOUNTING OFFICE REPORT.—Not later than July 1, 1996, the Comptroller General of the United States shall prepare and submit to the committees described in subsection (b)(3), a report concerning the determinations made by each Secretary under subsection (c). Such report shall contain an analysis of the determinations made by each Secretary under subsection (c) and a determination as to whether further reductions in full-time equivalent positions are appropriate.

SEC. 7412. REDUCING PERSONNEL IN WASHINGTON, D.C. AREA.

In making reductions in full-time equivalent positions, the Secretary of Health and Human Services is encouraged to reduce personnel in the Washington, DC, area office (agency headquarters) before reducing field personnel.

CHAPTER 2—BLOCK GRANTS FOR SOCIAL SERVICES

SEC. 7421. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

Section 2003(c) (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.".

SEC. 7422. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES.

(a) IN GENERAL.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing an additional 2 percent of out-of-wedlock teenage pregnancies a year, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) REPORT.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

(c) OUT-OF-WEDLOCK AND TEENAGE PREGNANCY PREVENTION PROGRAMS.—Section 2002 (42 U.S.C. 1397a) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall conduct a study with respect to State programs that have been implemented to determine the relative effectiveness of the different approaches for reducing out-of-wedlock pregnancies and preventing teenage pregnancy and the approaches that can be best replicated by other States.

"(2) Each State shall provide to the Secretary, in such form and with such frequency as the Secretary requires, data from the programs the State has implemented. The Secretary shall report to the Congress annually on the progress of the programs and shall, 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 PROGRAM

SEC. 7431. LIMITATION ON GROWTH OF ADMINISTRATIVE EXPENSES FOR FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

Section 474(b) (42 U.S.C. 674) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding the provisions of subparagraphs (D) and (E) of subsection (a)(3), the total amount of the payment under such subparagraphs with respect to the foster care maintenance payments program for any fiscal year beginning with fiscal year 1996 shall not exceed 110 percent of the total amount of such payment for the preceding fiscal year.".

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 7441. EXEMPTION OF BATTERED INDIVIDUALS FROM CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of, or amendment made by, subtitle D of title I of this Act, this subtitle, or subtitle C, D, E, or F of this title, the applicable administering authority of any specified provision may exempt from (or modify) the application of such provision to any individual who was battered or subjected to extreme cruelty if the physical, mental, or emotional well-being of the individual would be endangered by the application of such provision to such individual. The applicable administering authority may take into consideration the family circumstances and the counseling and other supportive service needs of the individual.

(b) SPECIFIED PROVISIONS.—For purposes of this section, the term "specified provision" means any requirement, limitation, or penalty under any of the following:

(1) Sections 404, 405 (a) and (b), 406 (b), (c), and (d), 414(d), 453(c), 469A, and 1614(a)(1) of the Social Security Act.

(2) Sections 5(i) (other than paragraph (3) thereof) and 6 (d) and (j), and the provision relating to work requirements in section 6 of the Food Stamp Act of 1977.

(3) Sections 7401(a) and 7402 of this Act.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) BATTERED OR SUBJECTED TO EXTREME CRUELTY.—The term "battered or subjected to extreme cruelty" includes, but is not limited to—

(A) physical acts resulting in, or threatening to result in, physical injury;

(B) sexual abuse, sexual activity involving a dependent child, forcing the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities, or threats of or attempts at physical or sexual abuse;

(C) mental abuse; and

(D) neglect or deprivation of medical care.

(2) CALCULATION OF PARTICIPATION RATES.—An individual exempted from the work requirements under section 404 of the Social Security Act by reason of subsection (a) shall not be included for purposes of calculating the State's participation rate under such section.

SEC. 7442. SENSE OF THE SENATE ON LEGISLATIVE ACCOUNTABILITY FOR UNFUNDED MANDATES IN WELFARE REFORM LEGISLATION.

(a) FINDINGS.—The Senate finds that the purposes of the Unfunded Mandates Reform Act of 1995 are—

(1) to strengthen the partnership between the Federal Government and State, local and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting State, local and tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance; and

(5) to require that Congress consider whether to provide funding to assist State, local and tribal governments in complying with Federal mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that prior to the Senate acting on the conference report on either H.R. 4 or any other legislation including welfare reform provisions, the Congressional Budget Office shall prepare an analysis of the conference report to include—

(1) estimates, over each of the next 7 fiscal years, by State and in total, of—

(A) the costs to States of meeting all work requirements in the conference report, including those for single-parent families, two-parent families, and those who have received cash assistance for 2 years;

(B) the resources available to the States to meet these work requirements, defined as Federal appropriations authorized in the conference report for this purpose in addition to what States are projected to spend under current welfare law; and

(C) the amount of any additional revenue needed by the States to meet the work requirements in the conference report, beyond resources available as defined under subparagraph (B);

(2) an estimate, based on the analysis in paragraph (1), of how many States would opt to pay any penalty provided for by the conference report rather than raise the additional revenue needed to meet the work requirements in the conference report; and

(3) 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. 7443. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS.

It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

SEC. 7444. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from sanctioning welfare recipients who test positive for use of controlled substances.

SEC. 7445. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

(a) IN GENERAL.—If an individual's benefits under a Federal, State, or local law relating to a means-tested welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For purposes of subsection (a), the term "means-tested welfare or public assistance program for which Federal funds are appropriated" shall include the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

Subtitle H—Reform of the Earned Income Tax Credit

SEC. 7460. AMENDMENT OF 1986 CODE.

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 Internal Revenue Code of 1986.

SEC. 7461. 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 tax 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 number, and

"(ii) if the individual is married (within the meaning 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 subsections (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 tax 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-employment 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. 7462. 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. 7463. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.

(a) DECREASE IN CREDIT RATE.—

(1) IN GENERAL.—Subsection (b) of section 32, as amended by section 7462(b), is amended to read as follows:

"(b) PERCENTAGES AND AMOUNTS.—

"(1) IN GENERAL.—The credit percentage shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:
1 qualifying child	34
2 or more qualifying children	36

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,425	$11,000."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 32(j) is amended by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2)".

(b) PHASEOUT.—Paragraph (2) of section 32(a) (relating to limitation) is amended to read as follows:

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall be reduced by 0.66 percent (0.86 percent if only 1 qualifying child) for each $100 or fraction thereof by which the taxpayer's adjusted gross income (or, if greater, earned income) for the taxable year exceeds the phaseout amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

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 (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraphs:

"(D) capital gain net income, and

"(E) 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 (E), 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. 7465. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), and (f)(2)(B) of section 32 are each amended by striking "adjusted gross income" 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)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).

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. 7466. 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) REVIEW OF ELECTRONIC FILING OF EARNED INCOME CREDIT CLAIMS.—The Secretary of the Treasury shall use the maximum review process that is administratively feasible to ensure that originators of electronic returns involving the earned income credit under section 32 of the Internal Revenue Code of 1986 comply with the law.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.

Subtitle I—Increase in Public Debt

SEC. 7471. INCREASE IN PUBLIC DEBT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting "$5,500,000,000,000".

TITLE VIII—COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(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 "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(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	After December 31, 1969."

and inserting in lieu thereof the following:

"7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½	After December 31, 1969."

and inserting in lieu thereof the following:

"7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.

(C) in the matter relating to a Member for Member service by striking out

"8	After December 31, 1969."

and inserting in lieu thereof the following:

"8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

and inserting in lieu thereof the following:

"7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.";

(E) in the matter relating to a bankruptcy judge by striking out

"8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(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	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(G) in the matter relating to a United States magistrate by striking out

"8	After September 30, 1987."

and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

and

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end thereof the following new paragraph:

"(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) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

Employee	7 Before January 1, 1996.
	7.25 January 1, 1996, to December 31, 1996.
	7.4 January 1, 1997, to December 31, 1997.
	7.5 January 1, 1998, to December 31, 2002.
	7 After December 31, 2002.
Congressional employee	7.5 Before January 1, 1996.
	7.25 January 1, 1996, to December 31, 1996.
	7.4 January 1, 1997, to December 31, 1997.
	7.5 January 1, 1998, to December 31, 2002.
	7 After December 31, 2002.
Member	7.5 Before January 1, 1996.
	7.25 January 1, 1996, to December 31, 1996.
	7.4 January 1, 1997, to December 31, 1997.
	7.5 January 1, 1998, to December 31, 2002.
	7 After December 31, 2002.
Law enforcement officer, firefighter, or air traffic controller	7.5 Before January 1, 1996.
	7.75 January 1, 1996, to December 31, 1996.
	7.9 January 1, 1997, to December 31, 1997.
	8 January 1, 1998, to December 31, 2002.
	7.5 After December 31, 2002.

(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 204 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;

"(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.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (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; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION 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 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 (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 DATES.—

(1) YEARS OF SERVICE: ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the 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 a Congressional employee or military service 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. 9001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 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, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(b) GENERAL EFFECTIVE DATE.—Unless otherwise specified 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, 2002, 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 entitled to such pay, 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, by which rates payable for educational assistance are increased under section 3015(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.

"(3) Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury 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. 11041. CLARIFICATION OF ENTITLEMENT FOR BENEFITS FOR DISABILITY RESULTING FROM TREATMENT OR VOCATIONAL SERVICES PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS.

(a) CLARIFICATION.—The text of section 1151 of title 38, United States Code, is amended to read as follows:

"(a)(1) Disability or death compensation shall be awarded 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 not the result of the veteran's willful misconduct; and

"(B) results from—

"(i) carelessness, 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 the Secretary (or by a service-provider used by the Secretary for such provision under section 3115 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, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28 by reason of a disability or death treated pursuant to this section as if it were service-connected, then no benefits 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.".

(b) EFFECTIVE 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, revise, reconsider, or otherwise readjudicate claims previously filed) for disability or death compensation, or dependency and indemnity compensation, on or after that date, regardless of the date of the occurrence of the additional disability or death upon which the claims are based.

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

TITLE XII—COMMITTEE ON FINANCE—REVENUE PROVISIONS

SEC. 12000. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise specifically provided, wherever 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 Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Subtitle A—Family Tax Relief

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. CHILD TAX CREDIT.

"(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 $500 multiplied by the number of qualifying children of the taxpayer.

"(b) LIMITATION.—

"(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—

"(A) $110,000 in the case of a joint return.

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) 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 18 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 32(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 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Child tax credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12002. REDUCTION IN MARRIAGE PENALTY.

(a) INCREASE IN BASIC STANDARD DEDUCTION FOR MARRIED INDIVIDUALS.—Section 63(c) (relating to standard deduction) is amended—

(1) by striking "$5,000" in paragraph (2)(A) and inserting "the applicable dollar amount",

(2) by striking "$2,500" in paragraph (2)(D) and inserting "½ of the applicable dollar amount", and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2), the applicable dollar amount shall be determined under the following table:

"For taxable years beginning in calendar year—	*The applicable dollar amount is—*
1996	*$6,800*
1997	*7,150*
1998	*7,500*
1999	*7,950*
2000	*8,200*
2001	*8,600*
2002	*9,100*
2003	*9,500*
2004	*9,950*
2005 and thereafter	*10,800*

(b) COST-OF-LIVING ADJUSTMENTS.—Section 63(c)(4) (relating to adjustments for inflation) is amended by adding at the end the following new flush sentence:

"This paragraph shall also apply to the $10,800 amount in paragraph (7) for taxable years beginning after 2005, except that subparagraph (B) shall be applied by substituting '2004' for '1987'.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12003. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income exceeds $60,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) 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.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 137.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose.

"(d) QUALIFIED ADOPTION EXPENSES.—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal and final adoption of an eligible child by the taxpayer, and

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.".

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount excludable from gross income 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 excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section) exceeds $60,000, bears to

"(B) $40,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).".

by this paragraph shall apply for purposes of applying section 403(b)(12) to such church plan.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12961. SECTION 457 NOT TO APPLY TO DEFERRED COMPENSATION OF A CHURCH.

(a) IN GENERAL.—Paragraph (13) of section 457(e) is amended to read as follows:

''(13) SPECIAL RULE FOR CHURCHES.—The term 'eligible employer' shall not include a church (within the meaning of section 401A(c)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12962. CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).

(a) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).''.

(b) APPLICATION OF SECTION 415(l).—Section 415(l)(1) is amended to read as follows:

''(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

''(A) Contributions allocated to any individual medical account which is part of a pension or annuity plan.

''(B) The actuarially determined amount of prefunding for the insurance value of benefits which are—

''(i) described in section 401(h);

''(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

''(iii) paid under a plan maintained by more than one employer; and

''(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12963. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended to read as follows: ''The preceding sentence shall not apply to amounts which were contributed by the employer, as determined under regulations prescribed by the Secretary, to provide pension or annuity credits, to the extent such credits are attributable to services performed before January 1, 1963, and are provided pursuant to pension or annuity plan provisions in existence on March 12, 1962, and on that date applicable to such services, or to provide pension or annuity credits for foreign missionaries (within the meaning of section 403(b)(2)(D)(iii)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12964. REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

''(iii) 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. 12965. CHURCH PLANS MAY ANNUITIZE 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) of such Code) 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 administered or funded by an organization 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 BENEFIT PAYMENTS.

(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) of such Code) 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 provides benefit payments to participants (and their beneficiaries)—

(1) to take into account the investment performance of the underlying assets or favorable interest or mortality experience, or

(2) that increase in an amount not in excess of 5 percent per year.

(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:

''(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 401A(c)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12968. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earning from self-employment) is amended by inserting '', but shall not include in such net earning from self-employment any retirement benefit received by such individual from a church plan (as defined in section 414(e))'' before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13001. GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

''(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.''.

SEC. 13002. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget,

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad'' account).

SEC. 13003. PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

SEC. 13004. SENSE OF THE SENATE ON CONTINUED HUMAN RIGHTS VIOLATIONS IN THE FORMER YUGOSLAVIA.

(a) FINDINGS.—The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of ''ethnic cleansing'' persist in Northwest Bosnia. Some 6,000 refugees

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 facia 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 Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable.".

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovena.

(2) with peace talks scheduled to begin in the United States on October 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 Herzegovena.

(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

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:

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:

Subtitle A—Block Grants for Temporary Assistance for Needy Families

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:

"(1) 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) ⅓ 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) ⅔ 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:

"If the fiscal year is:	The minimum participation rate is:
1996	15
1997	20
1998	25
1999	30
2000	35
2001	40
2002 or thereafter	50.

"(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:

"If the fiscal year is:	The minimum participation rate is:
1996	50
1997	75
1998	75
1999 or thereafter	90.

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (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

preceding 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 in fiscal year:	The minimum average number of hours per week is:
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35.

"(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)(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 COMPLIANCE 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 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 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 reduction 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 ADMINISTRATIVE 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.—

"(1) 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 fiscal year 1994 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

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(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 WELL-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 non-profit 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.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(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 "402(a)(26)" and inserting "408(a)(4)".

(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-

ing assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(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".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(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";

(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";

(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)(xi), 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.".

(l) 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—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(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 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.

(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.

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)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(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:

"(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/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(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

the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(4) APPROPRIATIONS.—

(A) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are authorized to be appropriated and are hereby appropriated, to remain available without fiscal year limitation, $200,000,000 for fiscal year 1996, $75,000,000 for fiscal year 1997, and $25,000,000 for fiscal year 1998, for the Commissioner of Social Security to utilize only for continuing disability reviews and redeterminations under title XVI of the Social Security Act, with reviews and redeterminations for individuals affected by the provisions of subsection (b) given highest priority.

(B) ADDITIONAL FUNDS.—Amounts appropriated under subparagraph (A) shall be in addition to any funds otherwise appropriated for continuing disability reviews and redeterminations under title XVI of the Social Security Act.

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 age 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.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(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-

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 93–66.".

(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.—

(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"; and

(C) by adding at the end the following new subparagraph:

"(G) 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 representative 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 representative 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 Commissioner 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 paragraph (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, whereever 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 residents 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 subparagraph 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 paragraph:

"(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 furnished 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 (1) 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 MEDIGAL 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);

(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.

"(f) 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.".

(c) 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"; 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 (f)) 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(f)(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)".

SEC. 12314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(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.".

(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 REGISTRY 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, compiling, or maintaining such 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 any 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";

(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 caseload 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"; 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—

"(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—

"(I) 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 to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(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 remuneration 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—

"(1) 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 (h)(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"; 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)))"; and

(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".

(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

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"; 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.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(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 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 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 MEDIGRANT.—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 ASYLEES.—

(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.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

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.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(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.

"(f) 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.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

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.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

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 then 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) ⅓ 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) ⅓ 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),

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; or

"(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 existence 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

information necessary to ensure a that there is 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 that there is 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 complied 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 'adoption 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 agreement; 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:

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively; and

(iv) in subparagraph (H), as so redesignated, by inserting "and" at the end;

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Act is amended—

(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(2) FISCAL YEARS 1997 THROUGH 2002.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1997 through 2002.

"(B) GRANTS.—

"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.".

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 following: "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 following:

"(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 inserting the following: "(11) a 1-time payment or allowance made under

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—

(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.—

"(1) 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"; and

(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.).''; and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(9) in subparagraph (L), as redesignated by paragraph (8)(B)—

(A) by striking ''(L)(i) The Secretary'' and inserting ''(L) The Secretary''; and

(B) by striking clause (ii).

(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''.

(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-

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 participate 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 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. 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"; 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"; and

(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 13, 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

the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

"(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.

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—

"(A)(i) the benefits issued in the State; multiplied by

"(ii) the payment error rate of the State; minus

"(B)(i) 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.

"(f) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(1) entitles any individual or family to assistance under this section; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance under 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

"(ii) 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:

"(l) 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 Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 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 agencies; 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 following: "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 subtitle an amendment or repeal is expressed in terms of an amend-

ment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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 number, and

"(ii) if the individual is married (within the meaning 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 subsections (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-employment 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:

"In the case of an eligible individual with:	The credit percentage is:	The initial phaseout percentage is:	The final phaseout percentage is:
1 qualifying child	34	15.98	20
2 or more qualifying children	36	21.06	25

"(2) AMOUNTS.—The earned income amount, the initial phaseout amount, and the final phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	The earned income amount is:	The initial phaseout amount is:	The final phaseout amount is:
1 qualifying child	$6,340	$11,630	$14,850
2 or more qualifying children	$8,910	$11,630	$17,750".

(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 10/9 of such income (determined without regard to this paragraph), and

"(B) the earned income amount shall be treated as being equal to 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)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).

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.

THE WHITE HOUSE

Office of the Press Secretary

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

net tax increase.

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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