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.

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:

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, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The amendment 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 2902.

Mrs. KASSEBAUM. 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.

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 merely 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 hope those Senators will stay with us on this amendment.
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 vote against Kennedy amendment. But I will be voting in favor, obviously, of the Kasbaun-Snowe-Jeffords amendment.

Our amendment restores the 6-month grace period, eliminates the .85 percent institution fee, restores 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 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 thing.

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 a number of 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 by the democrats and 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 have not been able to speak the truth that politics takes a back seat to 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.
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 $1.8 billion is the deficit, 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 Congressmen Tom Petri, a Republican from Wisconsin; and James Durbin, a Democrat 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.

The objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

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 the 1996 budget resolution. In this letter, I respond 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,

J. E. O’Neill,
Director.

RESPONSES TO QUESTIONS FROM CHAIRMAN DOMENICI

The Credit Reform Act of 1990 provided that the federal budget would record the cost of direct student loans on a cash accounting basis rather than as a cash basis. The act defined the subsidy cost of a loan to equal the present discounted value of all loan disbursements, default costs, interest subsidies, and other payments associated with the loan, excluding federal administrative costs. Federal administrative costs of a loan intended to be accounted for in the CBO’s February 1995 baseline reflected 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 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 proposal expanded 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 proposal, CBO estimated that it would save $4.3 billion over the 1995 budget resolution, for the above program. CBO estimated that savings would be $115 million over the 1996-2002 period. That baseline incorporated several additional assumptions.

Question 2: In his FY96 budget request, the President proposed an acceleration of that plan so that all student loans would be provided directly from the government no later than the 1997-1998 academic year. As part of the proposal, CBO estimated that the proposal would save $115 million over the 1996-2002 period. How would those savings be affected if the 1997-1998 academic year were used instead of the 1995 budget resolution?

Answer: The response to the first part of this question is addressed in the previous answer. The proposal was estimated to save $115 million over the 1995 budget resolution. The second part of this question is addressed in the previous answer. The proposal was estimated to save $4.3 billion over the 1996 budget resolution.

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? Would those costs be compared with those of loans made under the guaranteed program?

Answer: The response to the first part of this question is addressed in the previous answer. The proposal was estimated to save $115 million over the 1996-2002 period. In order to provide an estimate of a proposal to return to 100 percent direct 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 scored.

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 those costs be calculated over the life of the loan portfolio, the resolution allowed for the costs of direct student loans to be scored 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 are appropriately 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 directly tied to loan portfolio 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 include for this purpose. 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 the portfolio level, 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 allowances to guaranty agencies as part of their cost calculations, the waved administrative payments were always included in the subsidy costs of guaranteed student loans. However, OBRA-93 gave the Secretary of Education discretion to pay 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 per-student basis and would allocate any funds for this purpose, there would be no payments to guaranty agencies.

As part of its current services budget estimates, the Department of Education announced plans to use funds available under the capped entitlement to pay administrative 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 payments. The original Goodling proposal did not include any funds for this purpose, there would be no payments to guaranty agencies. 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 guaranty agencies and limit the funds to $24 million annually; (3) reestablish an administrative cost allowance (ACA) for guaranteed loan agencies at 0.85 percent of new loan volume or 0.08 percent of outstanding volume, with an annual limitation on ACA outlays. Assuming an enactment date of October 1995, the proposal 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 $1.6 billion 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, $24 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 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 grant 30 seconds to say thanks to Senator KASSBAUM 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 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 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 out of 53, as follows:

[ Rolloc Vote No. 499 Leg.]

YEAS—46

Akaka  Feinstei  Lieberman
Baucus  Ford  Mikulski
Biden  Glenn  Moseley-Braun
Bingaman  Graham  Moynihan
Boxer  Harkin  Murray
Bradley  Heflin  Pelosi
Brooks  Hings  Pryor
Bryan  Inouye  Red
Bumpers  Johnston  Robb
Burwell  Kennedy  Rockefeler
Conrad  Kerrey  Sarbanes
Daschle  Kerry  Simon
Dorgan  Lautenberg  Specter
Feingold  Leahy  Wellstone

NAYS—53

Abraham  Frist  McCain
Ashcroft  Gorton  McConnell
Baucus  Gramm  Murkowski
Bayh  Grassley  Nickles
Brown  Greg  Nunn
Burns  Hatfield  Pressler
Burr  Helms  Roodle
Campbell  Hutto  Santorum
Chafee  Inhofe  Shelby
Coats  Hutchison  Simpson
Cohen  Inouye  Smith
Corker  Jeffords  Snowe
Cox  Jentsch  Stevens
Craig  Kassebaum  Stevens
D'Amato  Kilkenny  Thomas
Dole  Lott  Thompson
Domenici  Lugar  Thurmond
Frist  McCain  Voinovich
Furman  Mack  Wyden

The motion was rejected.
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 that 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:

[Roll Call Vote No. 500, Leg.]

YEAS—99

Abraham  Feingold  Lott
Akaka  Feinfeld  Lugar
Ashcroft  Ford  Mack
Baucus  Frist  McCain
Bennett  Glenn  McConnell
Biden  Gorton  Mikulski
Bingaman  Graham  Moosley-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  Jackson  Red
Campbell  Hollings  Robb
Chafee  Hutchinson  Rockefeller
Coats  Inouye  Roth
Cochran  Jeffords  Santorum
Cohen  Johnson  Sarbanes
Conrad  Jordon  Shelby
Coverdell  Kassebaum  Simon
Craig  Kempthorne  Simpson
D’Amato  Kennedy  Smith
Daschle  Kerry  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.

The 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 $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 pro-growth and pro-family. 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 did. 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:
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:

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The Senate from the State of New Mexico, Mr. DOMENICI. Mr. President, the biggest risk is that we do 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 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. 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:

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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. Gordon). 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 $98 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.
Mr. KENNEDY. Mr. President, I understand the next vote is on the Kennedy amendment. Have the yeas and nays been ordered?

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

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment by the Senator from Massachusetts.

The yeas and nays were ordered.

There is a sufficient second.

The PRESIDING OFFICER. The amendment (No. 2959) was agreed to.

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

Mr. EXON. Mr. President, I yield the time remaining to the Senator from Maine. That is a heavy responsibility.

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.

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 cosponsors 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.

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.
I believe one of our duties 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 student loans 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 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, 11 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. Now, I believe 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 with regard 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. I would support raising this cap to 30 percent, which would cover the 1.3 million 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 1972, 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 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 $33,000.

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 back 5 to 6 dollars in 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 enjoyed 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. It eliminates the provision that allowed interest rates to increase on the PLUS loans from 3.1 percent beyond the growth of income for individuals and families all across this Nation so that their family contributions to students pursuing a higher education. Thank you, Mr. President.

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.

Mr. DOMENICI. I ask for the yeas and nays.

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 collegiately. 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.

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

The result was announced—yeas 99, nays 0, as follows:

[ Rolcall Vote No. 504 Leg. ]

YEAS—99

Lott ........................................... Nunn .........................................
   McCain ..................................... Pryor .........................................
   McColl ...................................... Smith ........................................
   Miukulos ................................... Simpson ...................................
   Mooney-Brann ................................ Smith ........................................
   Moore ....................................... Specter ....................................
   Morris ...................................... Stevens .....................................
   Murkowski .................................. Thompson .................................
   Murray ...................................... Thurmond ................................
   Nickles ...................................... Wanger ...................................
   Conrad ...................................... 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. 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 3 minutes.

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
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:

[Roll Call Vote No. 505 Leg.]

YEAS—53

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Brown
Burns
Campbell
Chafee
Coats
Cooper
Craig
Coverdell
Craig
DeWine
D’Amato
Daschle
Cohen
Cowan
Dole
Domenici
NAY.—46

Akaka
Baucus
Bingaman
Biden
Bennett
Brown
Burns
Campbell
Chafee
Coats
Coverdell
Craig
DeWine
Dole
Domenici
Ford

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, oblitera the farm program by cutting $134 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 raid 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 read as follows:

[Roll Call Vote No. 506 Leg.]

YEAS—46

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Ford
Griffith
Harkin
Helms
Inouye
Inhofe
Kerry
Kohl
Lautenberg
Leahy
Levin
Lincoln
Lieberman
Mikulski
Mosbey-Braun
Murray
Nickles
Nunn
Pell
Pringle
Reid
Roth
Santorum
Shelby
Smith
Specter
Thomas
Thurmond
Warner
Wellstone

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 fails.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. Santorum). 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.

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. 2904

(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.
Mr. NICKLES, proposes an amendment numbered 2064.

At the appropriate place in the Act, add the following:

SEC. 1. 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 1992 campaign document “Putting People First” pledged to lift the social security earnings limit three times, in 1989, 1992, 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 repeal in 1994. And each time on the other side of the aisle it was turned down.

Mr. President, I want to point out this only applies to low-income and middle-income Americans who in our society today are actually penalized by the Social Security tax. If our government bureaucrats appealing the tax might actually increase revenues. 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—aka of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table.

Mr. President, I ask unanimous consent that editorial endorsements from several newspapers, and also from various organizations, ranging from the National Council of Senior Citizens, and others, be printed in the Record.

Mr. President, there has been a lot of cries and pleas in behalf of seniors on the part of 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 husband and was able to add to her Social Security.

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 PRESIDENT OF THE SENATE has his time 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. MCCAII. Mr. President, I ask unanimous consent that editorial endorsements from several newspapers, and also from various organizations, ranging from the National Council of Senior Citizens, and others, be printed in the Record.

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The Indianapolis Star: On the face of it, the government's posture is in favor of the worker who stops 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 older workers 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 outdated 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 lose $1 in Social Security benefits for every $3 they earn over that limit. This rule effectively applies to those workers a marginal tax rate—higher than anyone else must pay—but there is more. Sen. J ohn 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 are 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 work away 33 cents out of every dollar earned means that older workers are punished for attempting to remain financially sound and who earn more than $9,720 a year must lose $1 in Social Security benefits for every $3 they earn over that limit. This rule effectively applies to those workers a marginal tax rate—higher than anyone else must pay—but there is more. Sen. J ohn 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.

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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 policies that inhibit it. Repealing the Social Security Earnings Test will 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 Senate and House leaders expressing our support and are ready to assist in any way possible.

Sincerely,
JAMES D. STATON,
Executive Director.

**THE SENIORS COALITION,**

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I wanted to take just a moment to encourage you in your efforts to get involved with legislative issues. Please feel free to contact me at (703) 591-0663 if there is anything we can do to help.

Sincerely,
JANE HANSEN,
Vice President for Government Relations.

**WALT DISNEY WORLD CO.,**
June 8, 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 supplemental to 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 rules do 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 skills 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 losing their Social Security. Instead of assuming 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 for the most vulnerable 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 remain in the minimum wage 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,**

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 senior citizens active in five thousand clubs and Councils, has made passage of this important piece of legislation one of our highest priorities for this Session. The Council has historically supported a sound Social Security retirement test amendment that 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. SMEOLEY,
Executive Director.

**COUNCIL OF JEWISH FEDERATIONS,**

DEAR SENATOR: On behalf of the Council of Jewish Federations, we writing to urge the immediate passage of the reauthorization of the Older Americans Act, S.3008. Millions of older citizens depend on the programs funded in this legislation for critical community and social services, nutrition programs, senior centers, legal assistance, homemaker 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 older persons with a life of quality. The Older Americans Act, with its coordination between local, state, and federal agencies, enables us to do that.

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. By 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,**

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 as a reauthorization. The OAA’s reauthorization and its programs is critical to providing continued supportive services for millions of older Americans, men and women, low-income and women. Without final passage, important new programs cannot be initiated and the White House Conference on Aging cannot take place on the issues which have been established. In particular, the 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 developed in a more comprehensive 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.,**

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 Americans Act.

For the past two decades, the OAA has provided vital services including congregate and home-delivered meals, transportation, information and referral, advocacy assistance, legal and telephonic counseling, homemaker services, legal and employment services.
Failure to take action on the reauthorization of the Older Americans Act means that some 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 delay or avoid institutionalization. A complete overhaul of state and local aging agencies is necessary to ensure that services provided 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. 308, the Older Americans Act at this time.

Sincerely,

DR. DANIEL THURSZ,
President.

NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING,

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 the necessary steps to pass the Older Americans Act reauthorization legislation, S. 308. 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 action on S. 308 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 forward on this impasse by deciding the earnings test from the Older Americans Act—by passing S. 308. Further delay will do a disservice to older persons who depend on OAA 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,

Hon. JOHN MCCAIN,
U.S. Senate,
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, which 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. 308 so that Older Americans Act programs for community and supportive services, nutrition programs, senior centers, legal assistance and elderly opportunities serving millions of older Americans will be able to continue uninterrupted.

Sincerely,

HAROLD PRICE,
President.

NATIONAL ASSOCIATION OF STATE UNITS ON AGING,

DEAR SENATOR MCCAIN: The National Association of State Units on Aging urges your support for the Senate action to reauthorize the Older Americans Act, S. 308. 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 a 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 the 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. 308. 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 Americans.

Sincerely,

DANIEL A. QUIRK,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Last year, Congress authorized a Commission to study the Social Security Notch Inequity as a way to 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 Appropriations 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 Commissioners, this 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.

CONGRESSIONAL RECORD Ð SENATE
October 26, 1995

AMENDMENT NO. 295
(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 295.

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 at the time of enrollment, inform enrollees in 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 lined by 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 do what we can 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 they 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 the services of specialists 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 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 want 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 I have a very brief, 2-minute colloquy with Senator Exon.

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 to 30 percent. My suggestion in talking with the Senator and with his staff was it might be a better idea if we had a 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. The 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 as a whole is before 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.

Mr. INHOFE. 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 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. BROWN. We have copies, and 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. TIL 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 our third tier, 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 proceeding that we take 10 minutes—5, 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.

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, 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 withdraw?

Instead of the quorum call, could others address generalities in the
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 earthquakes upon which we have 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. Bill Bailey 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 be able to purchase more of the good life, 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 expand.

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 the 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 earn 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, the Far East is gaining on us. We stand to lose our competitive position.

American farmers would probably be 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 promoted higher real wage rates here than in 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 lock-step. Thus, it is critical that we maintain growth in both capital stock, fixed asset investment, and worker productivity.

And, as the DRI projections show, the capital gains provisions of this bill will not 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 reduction 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 $108 billion in 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 $205 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.

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, and the Treasury, 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 off as early as 1981 while the Standard and Poor’s stock index [S & P Index] continued to rise.

The dark bars represent what taxable capital gains realizations would 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.

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 the 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.

The request for 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?

Mr. AKAKA. I would like to engage in a colloquy with the chairman and ranking members 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 Committees action 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 Marianas (CNMI) for infrastructure improvement projects. The reality, however, is that this recommendation would wreck—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 Omnibus Budget request it was stated that the needs of the Commonwealth of the Northern Marianas Islands for Federal financial assistance were decreasing due to local economic growth. Therefore, the level of Federal financial assistance should 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 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 obligations. 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 replacement or replacement costs for healthcare facilities to be between $20 and $50 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 the rapidly growing 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 Mariana Islands. However, $77 million remains to be paid under the agreement.

Given the extreme pressure on the budget, how were these needs and obligations to the islands to be met? Fortunately, the administration proposed a solution which would allow the appropriate Committees to avoid the compromise that the previous administration proposed, and to meet 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 the CNMI’s 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.


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

<table>
<thead>
<tr>
<th>Country</th>
<th>Percent</th>
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<tbody>
<tr>
<td>United States</td>
<td>28</td>
</tr>
<tr>
<td>Japan</td>
<td>1</td>
</tr>
<tr>
<td>France</td>
<td>16</td>
</tr>
<tr>
<td>Germany</td>
<td>0</td>
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<td>South Korea</td>
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<td>Taiwan</td>
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<td>Singapore</td>
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Lesser of 1 percent of gross sale price of 20 percent of gain.

U.S. AFFILIATED INSULAR AREAS
the Conferences on Interior Appropriations, who now also can 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 of the Department of the Interior to provide health and sanitation assistance to the CNMI in order to 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 program in the region. I simply cannot understand why the House and the Administration are insistently pushing this proposal completely wrecking the carefully crafted 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 of the Pacific Islands, who could now also agree to 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 proposals, which would ignore these responsibilities and commitments.

Let me reassure my colleagues from Hawaii that I will do all that I can to meet these needs.

Mr. AKAKA. I thank my colleague from Hawaii for his reassurance. Mr. President, 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 have speculated on how we would continue to borrow 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 more of our tax dollars, 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 $361 billion. If anything 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. Despite President Clinton’s decision to balance 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 $200,000 and 70 percent go to those making less than $50,000. 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 $10,000 or less annually.

20 percent 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 $55,000 for singles and indexed for inflation, and creating a $2,000 IRA for homemakers.

Capital gains tax that deducts 50 percent of the gain for individuals that have owned and taken care of the main residence for 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 principal 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 today but into the future. As health care needs for 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 we 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 that the measure reported out of the Finance Committee does.

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 the last year would there be a $2,000 increase in payments per person, be labeled, by some, as a cut.

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 the last year would there be a $2,000 increase in payments per person, be labeled, by some, as a cut.

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, work for 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 us on a course for reducing 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.

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 simplification—are addressed in a bill I introduced earlier this year with my colleague from Utah, Senator HATCH. That bill, S. 758, the S Corporation Reform Act of 1995, has the bipartisan cosponsorship of a third of the Senate.

While it is unfortunate that none of the provisions of S. 758 were included in the bill reported by the Finance Committee and made part of the Budget Reconciliation Bill that is before us, I am pleased 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 country. S corporations stay competitive and grow. I firmly believe that S corporation reform is long overdue, and hope that we can work through the conference process and during the rest of this legislative session, not simply to adopt the key S corporation 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, 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 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 businesses—become 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 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. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. COHEN. Mr. President, I was here listening to the distinguished Senator from South Carolina talking a moment ago. As always, I am impressed with his vigor, vitality, and enthusiasm, indeed 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 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 and 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 been 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 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 that the difference that we have is 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 been 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.
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 Iowa 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 Senate 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, you know that the amounts up to 10 percent of Medicare spending goes for waste, fraud and abuse, this is up to $17 billion a year.

If you have followed those hearings or read the numerous GAO and Inspector General reports, then you know we just cannot go after the small things in waste, fraud and abuse. We have to go after the big game. We have to have to take a truly comprehensive approach to combatting this bilking of the taxpayers and our seniors.

Now, the bill has some good provisions in it. I will not deny that. The Abraham amendment which I voted for is also pretty good. But that just takes a nick out of it. What we have to do is go after it with everything we can. The taxpayers and the elderly deserve no less.

My amendment, cosponsored by Senator GUARDIAN and BIDEN, both of whom have heard what GAO says 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 $540 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 pays for entertainment, and other things like auto use, tickets to sporting events, and the difference in payments is dramatic.

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 96 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 deny 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 comprised some 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—the $42 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 has concluded that it dilutes some of the $42 billion in savings.
Mr. DOMENICI. I yield back the balance of our time.

Mr. 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 Health and Human Services, O ffice of Inspector General, and a trust fund concept which would fund fair and accurate pay for those who have paid.

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws relating to 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:

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. The reason this standard is chosen was that the Medicare system is heavily reliant on providers' self-diligence and still makes a mistake, the provider does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. Nor can any complaint or decision issued by the Department

DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL
of Health and Human Services (HHS) has found that the most mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term “should know” in a manner which would make it clear that 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 “reckless disregard” 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 and Medicaid programs, 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 may 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 ANTI-KICKBACK STATUTE MORE LIENEFUL BY REQUIRING THE GOVERNMENT TO PROVE THAT THE SIGNIFICANT INTENT OF THE DEFENDANT WAS TO INDUCE REFERRALS.

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for referring Medicare or Medicaid patients. The statute is designed to ensure that medical decisions are not influenced by financial considerations. Kickbacks result in higher costs, particularly in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1991, 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 lucrative, however, are sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving these arrangements 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, and at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, it is a serious problem for the Government’s ability to prosecute all but the most blatant kickback arrangements.

The purpose of 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. Kats, 871 F.2d 105, 108 (3d Cir. 1989) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments served one or more legitimate purposes.

The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care provider’s interpretation adopted by Greber and its progeny. To prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the Government must prove that the defendant’s state of mind, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant’s head. It must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony of experts, monies furnished by the defendant to business associates or potential customers, etc.

These types of evidence are rarely clear about the purposes and motivations of the defendant. The defendant’s 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 intervention of one purpose was “significant,” reason for the payment, many common kickback schemes would be allowed to proliferate. In today’s health care industry, the percentage of payments may involve the kickback payment for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment served legitimate purposed. For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some other sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide function of space incorporate some incentive 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 “significant.” The 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. If any of the health care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In these instances (e.g., a fee-for-service plan) the reimbursement (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad provisions may be appropriate for capped, 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 abuse 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 engage in kickback schemes by simply re-arranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could simply lie about the percentage of payments made to the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least 51 percent of the use of the money). 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, program would result in 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 Medicaid receive and participate fully in the discount. For example, if to Medicare a 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 $20. 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 the provider a 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 per-transaction charge, and separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a pre-determined 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 for free and the lab 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, even if the discount is not shared with Medicare. It would be a big loser. Discounting should be permissible for a supplier
to offer a discount on a combination of items or services. Any 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 savings.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers a mechanism for advisory opinions on intent-based statutes, but that mechanism is provided under the Medicare/Medicaid anti-kickback statute and not the health care fraud statute. The advisory opinion process in H.R. 2389 is intended to be broader in scope than is provided under 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), 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, so long as it was for 20 years. Once again, Congress required HHS, in consultation with the Attorney General, to issue a safe harbor regulation describing conduct which is exempt from criminal prosecution or exclusion. See Section 14 of Public Law 100-39.

To date, the OIG has issued 13 final anti-kickback safe harbors and solicited comment on 8 additional proposed safe harbors, for a total of 21 final and proposed safe harbors. Over 30 pages of explanatory materials are published in the Federal Register regarding these proposed and final rules. In addition, the OIG has issued six general “fraud alerts” describing activity which does not fit the anti-kickback statute. Thus, the Government provides guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal: HHS would be required to issue advisory opinions on the public in 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 of Medicare and Medicaid are not available. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requesters a 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 requester. Indeed, it does not make sense for a requester to ask the Government to determine the requester’s own substantive intent, when 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 intent of the requester’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 could use the lack of advice 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 prove 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, which are not to be used for HHS, even if they did go to HHS, appropriations committees tend to view them as offset to appropriations. There are no estimates of number of requests or order of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural 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. We recognize that the law enforcement effort to control Medicare and Medicaid fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and increasing 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: 279 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 investigators in HHS/OIG has increased 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, State 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 in this manner would 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 and Medicaid programs from wrongdoing and the taxpayers. The parties who actually perpetrate fraud would “foot the bill.”

H.R. 2389 Proposal: Section 106 would create a new trust fund which uses fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bringeri in the first place. The fund would be used only by private contractors for “soft” claims review, such as, medical and utilization review, audits of costs reports, etc. The above functions are indeed necessary, and they are now being conducted primarily by the Medicare carriers and intermediaries.

The House 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 too small to be used for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 would result in no 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 which has no 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.

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.
QUESTION. What's the difference from the House bill, since it was moved so quickly.

Secretary Shalala, given that the [inaudible] is taking a completely different approach, isn’t there every reason to believe it will be worked out?

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.

Secretary Shalala. There are so many possible provisions in the Republicans bill that I don’t know where they are going. We should let the Senate pass it, and then work on it. The Senate probably don’t know what’s in the bill either. We’ll all work it out together.

Secretary Shalala. I don’t know the position of the other Republican Senators. But I know that they are all working on it. We’ve been working very closely with the Senate, and we hope to see that the bill is passed in the Senate.

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QUESTION. Secretary Shalala, what’s your theory about why this is happening up in the House?

Secretary Shalala. Well, I have long ago learned to go into the mountains, 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 thing we should be doing is wasting money, whether it be to go on the Ruby Ridge damage?

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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 is more reform 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 trying to defend today in terms of kickbacks.

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 $397 million and that was based in significant part on 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. It is the significant purpose, you raise the bar real high. Thank you.

(whereupon, at 1:35 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. That the amendment numbered 2971 be read.

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 Innovation, 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 programs' 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 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 a tremendous drain on the Federal Treasury for little economic benefit.

The Progressive Policy Institute says:

The President and Congress can break the (budgetary) 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.

We 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 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 proposals 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 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 Senate.

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 the 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 2-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 31 seconds.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. EXON. Mr. President, for the benefit of 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 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. The Senate is about to pass it. 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 $137,000 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 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. MCCA.IN. 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. DROMENICI. 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. DROMENICI. 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 1762
On page 1746, line 11, strike “2002” and insert “2003”.
On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year: The percentage is:

1996 .................................................. 100
1997 .................................................. 80
1998 .................................................. 60
1999 .................................................. 40
2000 .................................................. 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 to our most critical needs. This bill before us would rescind $712 million for certain highway projects funded in ISTEA and previous appropriation acts. This represents a substantial retraction of 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 monies 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, the Associated General Contractors of America.

Mr. President, let me just read a few of those States that lose money. Alabama will lose $12.8 million; Arizona, $2.8 million; Arkansas, $3.15 million; California, $43.8 million; Connecticut, $5 million; Florida, $27.9 million; Georgia, $10.8 million; Hawaii, $3 million; Idaho, $8 million; Illinois, $9 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

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October 26, 1995
CONGRESSIONAL RECORD — SENATE
S 15803

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 1989 report to Congress. Despite this huge deficiency in infrastructure investment, the reconciliation bill (S. 1357) now before the Senate would reduce funding for highways by $252 million in fiscal year 1996 and an additional $165 million in fiscal year 1997.

The 4,000 members of the American Road & Transportation Builders 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


Dear Senator Byrd: I am writing to indicate the support of the American Trucking Associations for your efforts to restore $715 million in highway funding.

A Department of Transportation report estimated that the backlogs of highway and bridge needs in the United States was in excess of $290 billion. 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 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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senate from New Mexico, the address.

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, that provision is referred to as a loophole was entirely legal over the years that it was enforced, and in the Finance Committee, after considerable
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 fully. I think that would apply those highway demonstration programs 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.
Mr. DOMENICI. 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 Congress 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, then 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 repealing this definition in the Act—$111 million; Ohio, $22 million; Texas, $29 million; Virginia, $14 million; West Virginia, $56 million. I have only read some of them.
Mr. DOMENICI. The Senator mentioned West Virginia?
Mr. BYRD. I mentioned West Virginia.
Mr. DOMENICI. 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 think it 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 me when I have used 3 minutes.
As I understand it, we have 5 minutes on our side.
The PRESIDING OFFICER. That is correct.
Mr. CHAFEE. If the Chair could tell me at the end of 3 minutes, I would appreciate it.
The PRESIDING OFFICER. If the Senator is offering an amendment, he needs to send it to the desk.
Mr. CHAFEE. Mr. President, I am sending the amendment to the desk, an unprinted amendment, and ask for its immediate consideration.
BILLING CLERK. The clerk will report the amendment.
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 and 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 Program that we worry about that includes 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 go to—their income are above 75 percent of the poverty level and qualify. Now, this is a pretty low-income group.
Mr. CHAFEE. 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 to define the package of individuals who are going to be covered. And second, they all have preexisting conditions, 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 to define the package of individuals who are going to be covered. And second, they all have preexisting conditions, so therefore would not be qualified.
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 understand what we are doing. 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 groups needed 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 support 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 ages 6 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, you 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 noted the States have not 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.

Mr. CHAFEE. That is right. It has all time been used on the amendment before us?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. What 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. Time has expired. If the manager wishes to speak in opposition, he is entitled to have 5 minutes restored in opposition.

Mr. CHAFEE. Why do we not save time and just adopt it?

Mr. ROCKEFELLER. Mr. President, I think it is very 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.

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 to what we have here, which is we are solely dealing with low-income individuals with disabilities. The Senator, 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.

Mr. CHAFEE. Why do we not save time and just adopt it?

Mr. ROCKEFELLER. Mr. President, I think it is very 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.

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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 the amendment.

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 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
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:

As amended by Senate amendments, the bill was ordered to be read a second time and the Yeas and Nays ordered taken.

SEC. 35. 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 35 and by inserting after section 35 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 title 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 credit allowed 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 21 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'.

(3) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 13 shall apply for purposes of this section.

(4) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting in its place the following new item:
"Sec. 35. Child tax credit.
Sec. 36. Overpayments of tax."

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

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, as 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, the tax cut they 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. Again, it 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 1 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 if they 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 is that 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 a 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 both the income tax and 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, it 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 of our income, as well as their FICA.

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 to try and define ways 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.

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move to table this 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. 295

(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 ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. Pryor, proposes an amendment numbered 2975.

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

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

The amendment is as follows:

On page 1553, beginning with line 13, strike all through page 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), the applicable percentage, and

(2) by adding at the end the following new paragraph:

“(g) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

For taxable years beginning in

1996 and 1997 ..................................... 60
1996 and thereafter ................................. 100.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.
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 capacity 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 for 1996, 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—on the back of the program that 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, and I think it makes a great deal of sense.

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. 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, 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 so 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, D.C.

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 kind of business, it is important that 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,


SMALL BUSINESS, LEGISLATIVE COUNCIL.


Hon. Christopher Bond, Chairman, Committee of Small Business, U.S. Senate, Washington, D.C.

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 the health insurance they pay. 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 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,

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 Nursemens, American Bus Association, American Consulting Engineers Council, American Council of Independent Laboratories, ...
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 of 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 Fonalwear Association,
International Television Association,
Machine 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 Druggists,
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 Paperboy 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 Independent 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 Conference of the United States, Inc.,
Small Business Exporters Association,
SMC/Pennsylvania Small Business, Society of America Florists,
Turfgrass Producers International.

NATIONAL ASSOCIATION
FOR THE SELF-EMPLOYED,

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 minimum 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 the self-employed. Many small 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 as 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/C.E.O.

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 MR. CHAIRMAN: On behalf of the National Association of Chambers of Commerce of the United States (NACC), 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 deduction was 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 advertising, sales promotion, and motivation in business. Many self-employed businesses are an increasingly important source of strength in our economy.

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 policies 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 large 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 fel lows, 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.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise, whether 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.

Sincerely,

T. B. DRUMMOND,
President.
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 able 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 NHA 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,

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR Mr. CHAIRMAN: On behalf of the World Floor Covering Association [WFC], representing floorcovering retailers throughout the United States, I wish to express our strong support for our amendment to the budget reconciliation bill to increase the deductibility for self-employed must be accommodated.

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, I hope they can find another revenue source. I support what Senator Bond and I 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 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. We, Mr. President, 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 despite the public debate 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 the self-employed 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, assume, have gone to town meetings or wherever and said we believe what Senator Bond and I are trying to do. The self-employed should have the same rights. I hope we can get to give 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 Dole, then Senator Dorgan, then Senator 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. I think 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.

Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

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 identical language except that the Committee on Finance shall include a provision in the bill which would provide tax relief to middle-class Americans 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 shall also include a provision which offsets the costs of this proposed tax deduction by restricting the growth of tax expenditures, except for the deductions and credits 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 talk about 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 for a 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 Ivy League schools, whether it is the Yales or the Harvards or the Yales or the Georgetows 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 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 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, to provide 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, 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 bottom line it is getting increasingly difficult for middle-class families, or any family to send their child to college. So the result is, in 1980, as I said, it took 4.5 percent of the median household income to pay for tuition and fees. I am not talking, now, about room and board. Today it takes 8.4 percent, almost double, 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 credits for machinery and equipment. I voted for tax credits for them buying machinery and all of those things which make sense in my view.

Come on, 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, whether it is the 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 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 exactly what 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 fill 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, more than one-fourth of the money has been borrowed in just 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 the money 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 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 1960's, the Federal Government has been committed to seeing that young people desiring to go to college should 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 deductions, 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 a couple—or 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, we ought to look in a more orderly way at look 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 my 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, Ms. 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:

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 in certain cases but not all, and that the budget reconciliation conferences should amend medicare to provide coverage for these important cancer drug treatments;

(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 one but not another, and that the budget reconciliation conferences 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 conferences 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 expansion 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 every 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...
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 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 injection form 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.

Mr. BIDEN. Mr. President, I thank the Senate and 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, I think it is good public policy 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 for oral drugs. 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, for $270 billion cut which the underlying bill of the majority contains, 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. Kyi). 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 calling, to say the 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 EFFORDS 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 from 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 327.

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:

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.
"(6) imported property income for the taxable year is defined as the sum of (H) and reduced as provided in subsection (b)(5))."

(954(a)(6)) in the United States, or

section (a)(6), the term `imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the sale, exchange, or other disposition of imported property, or the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil or gas extracted income (within the meaning of section 901(d)) or any foreign oil related income (within the meaning of section 907(c))."

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (1) 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:

"(I) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (1) 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:

The term `imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the sale, exchange, or other disposition of imported property, or the lease, rental, or licensing of imported property. Such term shall not include any foreign oil or gas extracted income (within the meaning of section 901(d)) or any foreign oil related income (within the meaning of section 907(c))."

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (1) 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:

"(I) IMPORTED PROPERTY INCOME DEFINED.—The term `imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with the sale, exchange, or other disposition of imported property, or the lease, rental, or licensing of imported property. Such term shall not include any foreign oil or gas extracted income (within the meaning of section 901(d))."

(3) LOOK-THRU RULES TO APPLY.—Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking "or (E)" and inserting "(E), or (H)"

(4) TECHNICAL AMENDMENTS.—

(a) Clause (iii) of section 952(c)(3)(B) (relating to certain activities which are to be taken into account) is amended by inserting after the following subclause after subclause (II) and by redesigning the following subclauses accordingly:

"(III) imported property income.

(b) 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".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in subsection (c), 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 any taxable year which is a part of such taxable years of such foreign corporations.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1996.

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 adds 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 time now, we say to someone, "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 taxes. Go 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, which is a country that would be imported income, has increased 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 has 280 employees, applies for trade adjustment assistance a few months ago.

What does that mean? It means they lost their jobs in this country, 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 pro-

duction costs low. It means they have moved their jobs out of this country.

And it says in its financial reports, the foreign 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 that mean? It means they get the 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 foreign workers, 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, FUSCONE, 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 move your American jobs overseas, we'll give you a tax break to reward those with a tax break who would move their jobs overseas.

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 with 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
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 GATT, 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 an area 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.
defeated on both sides. It has this wonder-ful kind of a kind-hearted title to it. It talks about "flexibility." The pur-pose 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, the Senate will not suggest it.

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. We need to be able to have 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 coun-try 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 healthy and to walk in peace. 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 chil-dren 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 Texas.

Mr. CHAFEE. Mr. President, the Sen-a- tor from Texas says this is a new ent-i-tlement. Let us look at what the present law is. The present law mandates that, in every State of the Na-tion, the States 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 the age of 18, 100 percent of those under 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 leavy 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 "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 lit-tle 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 amend-ment is resoundingly defeated because we have to stand for something around this place. When we send out $800 bil-lion, we are entitled to ask for some-thing on behalf of the States' poor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKETT. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Sen-a- tor from West Virginia has 23 seconds. The Senator from Texas has 46 seconds. Mr. ROCKETT. 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 that program. As for the notion of "getting rid of Medicaid"—nobody is talking about getting rid of Medicaid. And "mean spirited," I will 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 Is-land 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, and that should be based on our knowledge that only we know best and only we care.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I believe, under the agree-ment, the Senator from Massachusetts, Senator KERRY is next. I yield to him 5 minutes.

The PRESIDING OFFICER. The Sen-a- tor from Massachusetts is recognized.

AMENDMENT NO. 299

(Purpose: To increase the Federal minimum nonsupervisory 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: "AMENDMENT NO. 299 (Purpose: To increase the Federal minimum nonsupervisory 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: "AMENDMENT NO. 299 (Purpose: To increase the Federal minimum nonsupervisory wage.)"

Mr. ROCKETT. Mr. President, I yield myself 3 min-utes.

Mr. President, I say this is a sense of the Senate. No. 1, and No. 2, it does not set a specific figure at all. The notion that the Senator from West Virginia is talking about getting rid of Medicaid—nobody is talking about getting rid of Medicaid. As for 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 effect of the minimum wage are not felt only among the lowest income work-ers and families but also are felt in many middle-income families; and

The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (includ-ing 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 in-creases were slight to nonexistent; and

Legislation to raise the minimum wage to $5.15 an hour was introduced on Feb-ruary 14, 1995, but has not been debated by the Senate— Therefore, it is the sense of the Sen-a- te that the Senate should debate and vote before raising the minimum wage to be the minimum wage of the 19th session of the 104th Congress."

Mr. KERRY. I yield myself 3 min-utes.

Mr. President, I say 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 de-bate and vote on raising 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. Presi-dent? Well, from 1979 until 1995, 79 per-cent of the increase in household in-come 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 per-cent of the nonsupervisory wage, and during the 1970's was at about 45 per-cent of the nonsupervisory wage, 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 an 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-communitarian, I 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 adopt this unanimous-resolution. Members can wonder why this is inappropriate. 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—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—indeed, 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 have a typical gracious and wonderful way be willing to give me 15 seconds?

Mr. DOMENICI. It was not Friedman from Chicago?

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 no sense because 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.

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 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 a vote?

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 1207.

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 help build up their pension plans. 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 Senate Labor Committee's original cosponsor, 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 the gains 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 are we 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 unchristian 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 a 50 percent excise tax on pension fund reversions, except in limited circumstances. The idea was to make it costly for employers 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 cost to the company—on the active and retired 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 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 KENNETTY. 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 I believe it is important to balance the budget of the Federal Government 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.

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 with no 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...
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 different. It is not 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.

The Finance Committee 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 provision 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 the plan to currently have 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 as the standard used for retiree health benefits in the 1994 Uruguay Round Agreements Act [GATT]. However, the two provisions are vastly different in scope. The potential transfers allowed under this provision would be many times 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 provision, 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 enacted excise tax is to encourage 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's hypothetical 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 tax in the 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 standard 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. That thysupply 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. Moreover, the 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 my 5 minutes to the distinguished Finance Committee, Mr. ROTH.

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 faced the excise tax in any given year without sufficient assets. And after the passage of the stringent funding rules pa. 1994 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 concept. But it is not interesting that their own President proposed the same measure that is contained in the legislation before us today.

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 underfunded plans would 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 plans as of 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.
The bill clerk read as follows:

The Senator from Minnesota [Mr. WELSTONE] proposes an amendment numbered 2982.

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

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

Mr. JEFFORDS. Mr. President, I rise in violation 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?

The yeas have 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 geothermal 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 this amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.
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 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 children 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 available to invest in law enforcement, in education, in children, in health care, in transportation, in child care, in child nutrition programs.

It is market 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 fairness. It is time for some gift. They are absolutely necessary. It is a commodity without which our America 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 means to 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 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 remarks, provided he wishes to have that opportunity.

Mr. WELLSTONE. Mr. President, I will just take a minute and then wait to respond later, if I could.

The PRESIDENT pro tempore. 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 United States, take away the tax deduction that America's own oil and gas producers have left for producing oil and gas and the means to work in it. Produce it and make a living? To me, it seems absolutely absurd. This amendment that America's own 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. The people who 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 PRESIDENT pro tempore. 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 line 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. They are not a gravy 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 PRESIDENT pro tempore. 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 does not pay?

The PRESIDENT pro tempore. The Senator's 30 seconds have expired.

Mr. WELLSTONE. I thought the Chair said I had 1 minute, 45 seconds.

The PRESIDENT pro tempore. 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 PRESIDENT pro tempore. Who yields time?
Mr. WELSTONE. 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 $36 billion 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 reasonable 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. 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 to 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.

And I am sorry, 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, who are 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. 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 that after we defeat your amendment tonight, because it is in there and you all did see it when it got circulated. The PRESIDING OFFICER. Thank you. The Senator’s time has expired.

Mr. PRYOR. Mr. President, I also 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 am sure he will.

The PRESIDING OFFICER. Thank you. The Senator’s time has expired.

Mr. PRYOR. Mr. President, I also 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 am sure he will.

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

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 am sure he will.

The PRESIDING OFFICER. Thank you. The Senator’s time has expired.

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Mr. DOMENICI. Mr. President, Senator Chafee is going to explain where we are. Let me just suggest, at Senator Cohen’s suggestion, Senator Chafee, and others, the so-called Finance Committee amendment, which you are going to have an evening to look at, will have everything in it Senator Cohen wants and even further improvements than the one before us. So I do not want anyone to think that after we defeat your amendment tonight, because it is in there and you all did see it when it got 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 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 every thing 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. 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 what I 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. Mr. President, I send an amendment to 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 1997 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. I yield 2 minutes 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 the bill that we are currently 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 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. 294
(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 294.

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 column as 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 that 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 $60 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 the 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 yield time.

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 it is not anybody's 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 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. Thank 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 in 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 be able to have. 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 $100 a month, it is a reduction of $3.05 for which that person gets more help on Medicare and Medicaid.

I thank 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 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 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 want to 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 roll-call vote, with 1 minute for explanation between each vote to be equally divided in the usual form.

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

Mr. Dole. Let me persuade my colleagues we will have about 18 votes here. If we all stay in the Chamber we will probably save 20 or 30 minutes. There are not many places to go at 9:30 at night and we can not 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 as 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 Senate 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 Lleg.]

YEAS—99

Abraham                   Lott
                        Nunn
Akaka                     Palm
Ashcroft                 McCain
Baucus                   Mack
Biden                    McCarthy
Boxer                    Mikulski
Bradley                  Moseley-Braun
Breaux                   Moynihan
Brown                    Murray
Bumpers                  Nickles
Byrd                     Nunn
Campbell                 Packett
Chafee                   Paley
Coats                    Pallone
Cooper                   Panczka
Cochran                  Pappas
Cohen                    Parker
Conrad                   Partin
Corzine                  Paul
Cromartie                Pell
Daschle                  Perry
Dole                     Peterson
Domenici                 Pipkin
Dodd                     Porter
Dorgan                   Pryor
Dulaney                  Quay
Exon                     Quinn
Faircloth                Rangel
Frist                    Reagan
Feinstein                Risch
Ford                     Rockefeller
Gallego                  Roberts
Gardner                  Rockefeller
Gill                      Roberts
Gingrich                 Rockefeller
Gingrich                 Rockefeller
Gingrich                 Rockefeller
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The President. 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 President. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 99, nays 0, as follows:

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<tr>
<th>Yeas</th>
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<td>Faircloth</td>
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| So, the amendment (No. 2969) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me observe that, out of the three votes, we have had two unanimous votes. Maybe some could be done by voice vote. It would save some time. Otherwise, we are going to stay on the eight-minute schedule, and I urge my colleagues to stay on the premises.

Amendment No. 2970

The President. 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 amount, as the Veterans Administration. That is what this amendment does.

Mr. DOMENICI. Mr. President, I yield to Senator COHEN.

Mr. COHEN. Mr. President, the anti-fraud provision of 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 President. 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 President. 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 President. Are there any other Senators in the Chamber desiring to vote?

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

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So, the amendment (No. 2970) was agreed to.

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

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

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. 2971

The President. The pending question is amendment No. 2971.

Mr. EXON. The pending amendment would add two new matters to the bill and violate the prohibition of non-germane amendments. I raise a point of order that the pending amendment is therefore not germane and thus violates section 305(b)(2) of the Congressional Budget Act of 1974.

I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. Mr. President, I move to waive the point of order and ask for the yeas and nays.

The President. The question is on the motion to waive the Budget Act.

The clerk will call the roll.

The President. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 25, nays 74, as follows:

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The President. The pending question is amendment No. 2971.

Mr. EXON. 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 non-germane amendments. I raise a point of order that the pending amendment is therefore not germane and thus violates section 305(b)(2) of the Congressional Budget Act of 1974.

I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. Mr. President, I move to waive the point of order and ask for the yeas and nays.

The President. The question is on the motion to waive the Budget Act.

The clerks will call the roll.

The President. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 25, nays 74, as follows:

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I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. Mr. President, I move to waive the point of order and ask for the yeas and nays.

The President. The question is on the motion to waive the Budget Act.

The clerk will call the roll.

The President. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 25, nays 74, as follows:

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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.

Mr. BYRD. Mr. President, my amendment restores $712 million rescinded by the bill in 48 States in highway funds.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

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.

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 will 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 will call 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.]

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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. We cannot get support for 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 will 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 will call 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. 512 Leg.]

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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 fails.

AMENDMENT NO. 2972

The question occurs on amendment No. 2972, offered by 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 PRESIDING OFFICER. 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 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.

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 will 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 will call 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.]

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October 26, 1995
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.

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

The motion to lay on the table was agreed to.

Mr. BREAUX. Mr. President, I urge my colleagues to vote against this amendment. It is that simple. Guess what? It is a tax credit. Without this amendment, many children who would benefit from the child 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, an another brandnew enrollment 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 against this.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Breaux amendment. The yeas and nays have been ordered. Who yields time?

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.

Mr. DOMENICI. OK.

Mr. DOLE. We did not need an offset.

Mr. WELLSTONE. Can I ask what the offset is?

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 Ford
Ashcroft Frist McCain
Baucus Frist McCain
Benett Glenn McConnell
Biden Gore Mikulski
Bingaman Graham Moseley-Braun
Bond Gramm Moynihan
Boxer Grassley Murray
Breaux Gregs Nickles
Brown Hatch Nunn
Bryan Hatfield Pell
Burns Heflin Pryor
Byrd Helms Red
Campbell Hollings Robb
Chafee Hutchison Rockefeller
Coats Inhofe Roth
Cochrall Inouye Sarbanes
Cranig Jeffords Sarbanes
Conrad Johnston Shelby
Covey Kasabian Simon
Craig Kempin Simpson
D’Amato Kennedy Smith
Daschle Kerry Snowe
DeVine Kerry Specter
Dodd Kohl Stevens
Dole Kyler Thomas
Domenici Lautenberg Thompson
Dorgan Leaky Thurmond
East 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?

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. Mr. President, 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 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 J EFFORDS.

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. 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.

Mr. DORGAN. Mr. President, it is an extraordinarily simple amendment. We have 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. Mr. President, 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 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 J EFFORDS.

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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. There is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2977) was agreed to.

AMENDMENT NO. 2978

The PRESIDING OFFICER. The question occurs on amendment No. 2978 offered by the Senator from North Dakota.

The Senator from North Dakota is recognized for 30 seconds.

Mr. DORGAN. Mr. President, it is an extraordinarily simple amendment. We have 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. Mr. President, 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 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 J EFFORDS.

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. There is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2978) was agreed to.

AMENDMENT NO. 2979

The PRESIDING OFFICER. The question occurs on amendment No. 2979 offered by the Senator from Maine.

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 J EFFORDS.

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. There is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2979) was agreed to.

AMENDMENT NO. 2980

The PRESIDING OFFICER. The question occurs on amendment No. 2980 offered by the Senator from Maine.

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 J EFFORDS.

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. There is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2980) was agreed to.

AMENDMENT NO. 2981

The PRESIDING OFFICER. The question occurs on amendment No. 2981 offered by the Senator from Maine.

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 J EFFORDS.

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. There is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2981) was agreed to.
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. ROTH. I move to lay on the table the pending motion.

The motion to lay on the table the pending motion 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 that.

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.

EXTRANEOUS PROVISIONS—SENIATE BILL

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<th>Provision</th>
<th>Comments/Violation</th>
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<tr>
<td>Sec. 1123(a)(4), 1113(c), and (e) (2)</td>
<td>Clarification on peanut pool and sale, lease, or transfer of farmers' 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.</td>
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<td>Sec. 1115</td>
<td>Savings adjustment; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
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<td>Sec. 1110</td>
<td>Sense of the Senate regarding tax provisions relating to ethanol; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
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<td>Sec. 2; Sec. 7421(a)</td>
<td>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.</td>
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<td>Sec. 2; Sec. 7421(a)</td>
<td>Notice to Congress of noncompliance with deadlines; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
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<td>Sec. 2; Sec. 7421(a)</td>
<td>Requirement that GAO monitor DOE sale and report to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
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<td>Sec. 2; Sec. 7421(b)</td>
<td>Application of Sec. 7421(h), (i), (k), (l), and (m) to the Oil Shale Reserve sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
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<td>Sec. 2; Sec. 7421(b)</td>
<td>Expedited procedures for consideration of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
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<td>Sec. 302</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would require the Secretary to report to Congress on the feasibility of a private deposit insurance system.</td>
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<tr>
<td>Sec. 301(d)</td>
<td>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 (d) will have no effect when reconciliation is enacted.</td>
</tr>
<tr>
<td>Sec. 4001(a)(1), beginning on p. 207, line 1 with “unless” through “1998” on line 23.</td>
<td>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)(1) lists as one of the exceptions the spectrum to be used for advanced/ digital television, with a qualification. That is, the FCC cannot auction 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 not affected 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.</td>
</tr>
<tr>
<td>Sec. 4002</td>
<td>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 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 are no appropriations actions on these fees they cannot be collected. Since future legal action on future action by the Congress, changing the schedule of fees in this reconciliation bill has no budgetary effect, so the provision is extraneous.</td>
</tr>
<tr>
<td>Sec. 4013</td>
<td>Expediting procedures for Congressional consideration of fiscal issues; Byrd rule (b)(1)(A): A provision which would, on net, increase outlays or decrease revenues which 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.</td>
</tr>
<tr>
<td>Sec. 4022(a)</td>
<td>Byrd rule (b)(1)(A): 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 be in the mix of interactions with the 1995 Reconciliation process, dealing with section 1021 in Alaska. Provision will cause outlay beyond the years in which savings are achieved through spectrum auctions.</td>
</tr>
<tr>
<td>Sec. 4022(a)</td>
<td>Byrd rule (b)(1)(A): 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.</td>
</tr>
<tr>
<td>Sec. 4033</td>
<td>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.</td>
</tr>
<tr>
<td>Sec. 4034</td>
<td>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.</td>
</tr>
<tr>
<td>Sec. 4035</td>
<td>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.</td>
</tr>
<tr>
<td>Sec. 5020</td>
<td>Purpose and policy; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Secs. 5020(a)(1), (b)(1), (c)(1), (d)(1)</td>
<td>Requirement that DOE accept low level nuclear waste from any enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Secs. 5021(c), (d)</td>
<td>Waiver of liability for State or local governments for their role in accepting low level nuclear waste from any enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5201</td>
<td>Special Areas reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5207(d)</td>
<td>Reporting requirements (beginning with line 22 on page 48 through line 2 on page 49); Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5210(b)</td>
<td>Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5210(c)</td>
<td>Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5210(d)</td>
<td>Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5210(e)</td>
<td>Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5210(f)</td>
<td>Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Sec. 5210(g)</td>
<td>Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle A—United States Enrichment Corporation</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle B—Enrichment Corporation amendment to the Enrichment Act of 1990</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle C—Arctic Coastal Plain Leasing and Revenue Act</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle D—Park Entrance Fees</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle E—Water Projects</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle F—Oil and Gas Royalties</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle G—Royalty in Kind</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle H—Mining</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle K—Radio and Television Communication Site Fees</td>
<td>Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Subtitle L—CBR scores no impact from communication fees; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.</td>
<td></td>
</tr>
</tbody>
</table>

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)
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

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
<th>Budget Act Violation</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title I</td>
<td>COMMITTEE: AGRICULTURE</td>
<td>Compliance: 1.5 yes; 7 no</td>
<td></td>
</tr>
<tr>
<td>1131(b)(3)(B)</td>
<td>Creates a temporary quota for seed peanuts</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>1131(b)</td>
<td>Terminates Tree Assistance program</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>1131(c)</td>
<td>Provides for Sale, Lease or Transfer of Peanut quotas</td>
<td>313(b)(1)(D)</td>
<td>Savings are incidental.</td>
</tr>
<tr>
<td>1131(e)(2)</td>
<td>Makes available additional peanuts if market price exceeds 120% loan rate</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>1131(e)(3)</td>
<td>Savings adjustment to prorate payments to farmers if deficit targets aren't met</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>1131(i)</td>
<td>Sense of the Senate regarding Ethanol</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
</tbody>
</table>

#### BYRD RULE VIOLATIONS, RECONCILIATION 1996

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Title II</td>
<td>COMMITTEE: ARMED SERVICES</td>
<td>Compliance 1st Year: No; 5 Years: Yes; 7-Years: Yes</td>
<td></td>
</tr>
<tr>
<td>7421(a)</td>
<td>Sale Required. The sale of the Elk Hills, CA site in the NPR</td>
<td>313(b)(1)(E)</td>
<td>There is a loss of offsetting receipts in the outyears that is not offset with the title.</td>
</tr>
<tr>
<td>7421(b)</td>
<td>Treatment of State of California. Reservation of 7 percent of the sale of the Elk Hills site in the NPR to settle claims with the State of California</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)</td>
<td>Maintaining Elk Hills Unit Production. Sets requirements for Elk Hills to maintain production till sale is complete</td>
<td></td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)(3)</td>
<td>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</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)(2)</td>
<td>Joint Resolution of Approval. Provides fast track authority for congressional approval of the sale of the Elk Hills site in the NPR</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)</td>
<td>Compliance with Deadlines. Requires the Secretary of Energy to notify Congress if the sale is delayed</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)(b)</td>
<td>Oversight. Requires the Comptroller General to monitor the sale</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)(b)</td>
<td>Sale Required. The sale of reserves in the NPR other than that at Elk Hills, CA</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)(b)</td>
<td>Administration of Sale. Applies subsections c, d, e, f, i, j, k, l, m, and n to section 7221a. of this title to the sale of sites other than Elk Hills</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
<tr>
<td>7421(a)(b)</td>
<td>Joint Resolution of Approval. Provides fast track authority for congressional consideration of the sale</td>
<td>313(b)(1)(A)</td>
<td>No budgetary impact.</td>
</tr>
</tbody>
</table>

### Extraneous Provisions, Reconciliation 1995

<table>
<thead>
<tr>
<th>Subtitle and Section</th>
<th>Subject</th>
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<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title I</td>
<td>COMMITTEE: BANKING, HOUSING, AND URBAN AFFAIRS</td>
<td>Compliance: Yes</td>
<td></td>
</tr>
<tr>
<td>3002</td>
<td>Deposit Insurance Study. Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.</td>
<td>313(b)(1)(A)</td>
<td>Instilling a study does not have an impact on the deficit. (Not in cost estimate)</td>
</tr>
<tr>
<td>3001(d)</td>
<td>Merger of BIF and SIF</td>
<td>313(b)(1)(A)</td>
<td>Has no impact on the deficit.</td>
</tr>
<tr>
<td>Title II</td>
<td>COMMITTEE: COMMERCE, SCIENCE, AND TRANSPORTATION</td>
<td>Compliance: Yes</td>
<td></td>
</tr>
<tr>
<td>4002</td>
<td>Annual Regulatory Fees</td>
<td>313(b)(1)(A)</td>
<td>Authorizing regulatory fees has no impact on the deficit until after appropriations. (Not in cost estimate)</td>
</tr>
<tr>
<td>4001(a)(1)(II)</td>
<td>Spectrum language p. 207, lines 2-23</td>
<td>313(b)(1)(A)</td>
<td>This language has no impact on spending.</td>
</tr>
<tr>
<td>4021</td>
<td>Oil Spill Recovery Institute</td>
<td>313(b)(1)(E)</td>
<td>Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.</td>
</tr>
<tr>
<td>4022(a)</td>
<td>Use of Section 1012 in Alaska</td>
<td>313(b)(1)(E)</td>
<td>Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.</td>
</tr>
<tr>
<td>4031</td>
<td>Disaster Funding for Railroads</td>
<td>313(b)(1)(A)</td>
<td>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)</td>
</tr>
<tr>
<td>4034</td>
<td>Grade-crossing eligibility</td>
<td>313(b)(1)(A)</td>
<td>This section expands the list of activities eligible for LRFA and has no impact on the deficit. (Not in cost estimate)</td>
</tr>
<tr>
<td>Title III</td>
<td>COMMITTEE: ENERGY AND NATURAL RESOURCES</td>
<td>Compliance in 1, 5 and 7</td>
<td></td>
</tr>
<tr>
<td>Subtitle A, Uranium Enrichment Corporation:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5002</td>
<td>Statement of Purpose</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary.</td>
</tr>
<tr>
<td>5004(a)(2) &amp; (3)</td>
<td>Proceeds</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary.</td>
</tr>
<tr>
<td>5013(c)(11)(B)</td>
<td>Low-Level Waste</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, requirement that DOE accept low-level waste from any operator of an enrichment facility.</td>
</tr>
<tr>
<td>5013(c)</td>
<td>Low-Level Waste</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, waiver of liability for State or Interstate Compact's requirement to accept low-level nuclear waste from any enrichment facility.</td>
</tr>
<tr>
<td>Subtitle B, DOE:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5100</td>
<td>California Land Directed Sale</td>
<td>B3318(b)(1)(D)</td>
<td>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.</td>
</tr>
<tr>
<td>Subtitle C, ANWR:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5202</td>
<td>Purpose and Policy</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary.</td>
</tr>
<tr>
<td>5206</td>
<td>Adequacy of 1987 EIS</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary.</td>
</tr>
<tr>
<td>5209(d), second sentence</td>
<td>Special Areas</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, reporting requirements to Congress.</td>
</tr>
<tr>
<td>5212</td>
<td>Expedited Judicial Review</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, reporting requirements to Congress.</td>
</tr>
<tr>
<td>5213</td>
<td>Rights of way Requirements</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, no budgetary impact. Overrides existing law that establishes requirements for transportation rights of way within the Alaska refuge, including the ANWR.</td>
</tr>
<tr>
<td>5215(b)</td>
<td>New Revenues</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, reporting requirements.</td>
</tr>
<tr>
<td>Subtitle D, Park Entrance Fees:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5300(e)(3)</td>
<td>Fees</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, authorization of appropriations.</td>
</tr>
<tr>
<td>5300(e)(10)</td>
<td>Fees</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, report to Congress on fee collections.</td>
</tr>
<tr>
<td>5301</td>
<td>Challenge Cost-Share Agreements</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, authorization to enter into challenge cost-share agreements.</td>
</tr>
<tr>
<td>5302</td>
<td>Cost Recovery</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, cost recovery for damage to National Park resources.</td>
</tr>
<tr>
<td>5305(a)(2)</td>
<td>Allocation and Use of Fees</td>
<td>313(b)(1)(A)</td>
<td>Non-budgetary, reporting requirements to Congress. (Second sentence)</td>
</tr>
<tr>
<td>Subtitle and Section</td>
<td>Subject</td>
<td>Budget Act Violation</td>
<td>Explanation</td>
</tr>
<tr>
<td>---------------------</td>
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<td>-------------</td>
</tr>
<tr>
<td>Chap. 1: Medicare Choice Plans</td>
<td>1895(c)(1)(B)</td>
<td>313(b)(1)(A)</td>
<td>Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Chap. 2: Rural Areas</td>
<td>7071</td>
<td>313(b)(1)(B)</td>
<td>Requires ProPAC to submit an annual report to Congress on Home Health payment methodology. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Chap. 3: ProPAC, Medicare payment policies</td>
<td>7036</td>
<td>313(b)(1)(A)</td>
<td>Requires ProPAC to submit a report to the Secretary of the Department of Health and Human Services. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Chap. 4: ProPAC, Medicare payment policies</td>
<td>7076</td>
<td>313(b)(1)(A)</td>
<td>Authorizes demonstration project grants for Telemedicine. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Chap. 5: Rural Hospitals</td>
<td>7014(a)(1)</td>
<td>313(b)(1)(B)</td>
<td>Requires HHS to develop a proposal and recommendations. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Chap. 6: ProPAC, Medicare payment policies</td>
<td>7116</td>
<td>313(b)(1)(A)</td>
<td>Directs the Secretary to study the effects of provisions on extended care services. Produces no change in outlays or revenues.</td>
</tr>
<tr>
<td>Chap. 7: ProPAC, Medicare payment policies</td>
<td>7021(a)</td>
<td>313(b)(1)(A)</td>
<td>Requires ProPAC to submit a report to the Congress and the Secretary of the Department of Health and Human Services. Produces no change in outlays or revenues.</td>
</tr>
</tbody>
</table>

**Title VI: Committee on Environment & Public Works**

**Section 602(c):** Recession of appropriated demonstration projects...

**Title VII: Spending Committee: Finance**

*Compliance in 5 and 7, not in 1*
<table>
<thead>
<tr>
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</thead>
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<tr>
<td>2111(b)(1)</td>
<td>Elements Relating to Eligibility</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Plans are required to describe limitations on eligibility; eligibility standards; methods of establishing and continuing eligibility and enrollment; the eligibility standards that 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.</td>
</tr>
<tr>
<td>2111(b)(2-6)</td>
<td>Description of General Elements</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Plans are required to describe the amount, duration and scope of health care services and items covered including differences among population groups; delivery methods; content; and cost-sharing, if any, and utilization incentives.</td>
</tr>
<tr>
<td>2111(b)(7)</td>
<td>Support for Certain Hospitals</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Sets forth criteria for hospitals that are to be eligible for disproportionate share hospital (DSH) payments.</td>
</tr>
<tr>
<td>2111(c)</td>
<td>Immunizations for Children</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Requires plans to provide medical assistance for immunizations for children eligible for medical assistance in accordance with a schedule for immunizations established by the Health Department of the State.</td>
</tr>
<tr>
<td>2111(d)</td>
<td>Family Planning Services</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States shall provide prepregnancy planning services and supplies as authorized by the appropriation.</td>
</tr>
<tr>
<td>2111(e)</td>
<td>Preexisting Condition Exclusion</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Prohibits States from denying coverage to eligible individuals on the basis of a preexisting condition. If a State allows a condition to exclude coverage on the basis of a preexisting condition, the State must provide for such coverage through its Medicaid plan.</td>
</tr>
<tr>
<td>2111(f)</td>
<td>Mental Health Services</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. The 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.</td>
</tr>
<tr>
<td>2112</td>
<td>Set-asides For Population Groups</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. State plans are required to provide 85 percent of amount spent in FY 1995 on low-income families, low-income elderly, and low-income disabled people. Includes assistance provided to certain aliens. Includes DSIs.</td>
</tr>
<tr>
<td>2112(d)</td>
<td>Use of Residual Funds</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Any funds not required to be expended under the set-asides may only be expended for medical assistance for eligible low-income individuals, medically-related services, and administration.</td>
</tr>
<tr>
<td>2113</td>
<td>Premiums and Cost-sharing</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States may not impose cost-sharing on pregnant women and children under 100 percent of poverty for primary or preventive care under the Medicaid plan, unless the charge is nominal. States may impose cost-sharing to discourage the inappropriate use of emergency medical services. State may impose premiums and cost-sharing differentially.</td>
</tr>
<tr>
<td>2114</td>
<td>Description of Process for Developing Capitation Payment Rates</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. If a state plans to contract with a capitated health care organization, the plan must contain definitions of the actual science that will be used to analyze healthcare 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 notice about capitation rates unless the information is designated as proprietary and seek public comment.</td>
</tr>
<tr>
<td>2115</td>
<td>Construction</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Outlines state flexibility in benefits, provider payments, geographical coverage and selection of providers. Says that states do not have 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.</td>
</tr>
<tr>
<td>2116</td>
<td>Causes of Action</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States that do not have beneficiaries, providers or health care plans that have a right to sue if a State fails to comply with this law or with the provisions of 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 section may be construed as affecting any actions brought under State law.</td>
</tr>
<tr>
<td>2117</td>
<td>Treatment and Income Resources</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Spousal impoverishment. Includes definitions.</td>
</tr>
<tr>
<td>2118</td>
<td>Allotment of Funds Among States</td>
<td>313(b)(1)(B)</td>
<td>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 GA review of the allotments. This section also contains definitions.</td>
</tr>
<tr>
<td>2121</td>
<td>Limitation on Use of Funds</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Limitation on use of funds. Lists certain categories of funds that cannot be used for medical assistance.</td>
</tr>
<tr>
<td>2122</td>
<td>Payments to States</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Sets forth payments to States for medical assistance, medically related services, and administrative expenses in relation to the state’s Medicaid assistance percentage (MAP), which is defined. Includes provisions for overpayments. Contains constraints on provider-related donations and health care-related taxes. Includes a waiver for broad-based health taxes not related to payments.</td>
</tr>
<tr>
<td>2124</td>
<td>Authority to Use Portion of Payment for Other Purposes</td>
<td>313(b)(1)(A)</td>
<td>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 Section 1922 of the Social Security Act involving the New Assistance block grant, MCH block grant, SSI, Medicare, Title XX (IGSB) and the Foster Care program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.</td>
</tr>
<tr>
<td>2123</td>
<td>Limitation on Use of Funds, Disability</td>
<td>313(b)(1)(A)</td>
<td>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, or for providers excluded from participation under other programs. No payments shall be made to a state for medical assistance furnished to any Aliens.</td>
</tr>
<tr>
<td>2123(g)</td>
<td>Limitation on Payment for Abstinence</td>
<td>313(b)(1)(A)</td>
<td>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 abortion.</td>
</tr>
<tr>
<td>2123(h)</td>
<td>Treatment of Assisted Suicide</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes 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.</td>
</tr>
<tr>
<td>2123(i)</td>
<td>Unauthorized Use of Funds</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Payments shall be used to purchase or improve land or construct, renovate or expand buildings, to pay rent 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.</td>
</tr>
<tr>
<td>2123(j)</td>
<td>Grant Program for Community Health Centers and Rural Health Clinics</td>
<td>313(b)(1)(A)</td>
<td>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.</td>
</tr>
<tr>
<td>2123(l)</td>
<td>Use of Audits to Achieve Fiscal Integrity</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Requires annual audits of State expenditures. Requires states to adopt and maintain fiscal controls, accounting procedures, and data processing safeguards which are consistent with generally accepted accounting principles.</td>
</tr>
<tr>
<td>2132</td>
<td>Fraud Prevention Program</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have programs to detect and prevent fraud and abuse. Includes program requirements. Requires States to report information about providers excluded from program to the Secretary and State medical licensing boards.</td>
</tr>
<tr>
<td>2133</td>
<td>Information Concerning Sanctions Taken by State Licensing Authorities Against Health Care Practitioners</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have reporting systems about proceedings against providers.</td>
</tr>
<tr>
<td>2134</td>
<td>Medicaid Fraud Control Units</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have Medicaid fraud units. Organization of unit is specified. It is to provide for collection of overpayments.</td>
</tr>
<tr>
<td>2135</td>
<td>Recoveries from Third Parties and Providers</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. Each State plan shall take reasonable steps to ascertain the legal liability of third parties to pay for care and services under the plan. Provides protections to beneficiaries. Provides penalties in the form of reductions of payments to a person who violates this section.</td>
</tr>
<tr>
<td>2135(f)</td>
<td>Required Laws Relating to Medical Child Support</td>
<td>313(b)(1)(A)</td>
<td>Extraneous; no budgetary impact. States are required to have laws that prohibit insurers from denying enrollment of a child under the health coverage of a parent 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.</td>
</tr>
<tr>
<td>2135(g)</td>
<td>Estate Recoveries and Liens permitted</td>
<td>313(b)(1)(A)</td>
<td>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 impose a lien on the principal residence of moderate value of the family farm owned by the individual as a condition of the spouse of that individual receiving long term care.</td>
</tr>
</tbody>
</table>
Extraneous; no budgetary impact. States are required to develop a satisfactory resolution to any dispute concerning the approval of a Medicaid plan.

Extraneous; no budgetary impact. 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.

Extraneous; no budgetary impact. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.

Extraneous; no budgetary impact. States are required to reduce the amount of assistance payable to a family if an adult refuses to engage in work activities.

Extraneous; does not score. States are required to enter into a written agreement with the Bureau of Indian Affairs in order to receive funding under the program.

Extraneous; no budgetary impact. States may provide assistance to individuals providing day care to other participating individuals as meeting the work requirements.

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.

Extraneous; does not score. States may not provide assistance for someone who has not completed high school and is not in school or an approved alternative educational or training program.

Extraneous; no budgetary impact. States may provide assistance to a family with a parent, guardian, or other adult relative.

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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.

Mr. 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 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.