Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free and to encourage personal responsibility;

Whereas the annual Red Ribbon Celebration, coordinated by the National Family Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and community awareness efforts contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drugs use: Now, therefore, be it

Resolved, That the Senate designate October 30, 1995, as ''National Drug Awareness Day''.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

SPECTER AMENDMENT NO. 2985

Mr. SPECTER proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 539, line 16, strike all that follows through page 541, line 9.

SPECTER AMENDMENT NO. 2986

Mr. SPECTER proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate and limited deductions for home mortgage interest and charitable contributions.

GRASSLEY AMENDMENT NO. 2987

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

Before ''; and'' at the end of sec. 2111 (a)(1)(D), insert the following: ''; however, the payment of burial and/or funeral expenses of the individual shall be subject to 42 U.S.C. §§ 1382b(a)(2)(B) and 1382b(d)''.

BAUCUS (AND OTHERS) AMENDMENT NO. 2988

Mr. BAUCUS (for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. BIDEN, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1357, supra, as follows:

On page 272, strike line 21 and all that follows through page 293, line 22.

On page 161, strike line 3 and all that follows through page 178, line 7.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2989

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. DEWINE, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of title XII, add the following new subtitle:

Subtitle K—Enhanced Enterprise Zones

SEC. 12971. SHORT TITLE.

This subtitle may be cited as the ''Enhanced Enterprise Zones Act of 1995''.

SEC. 12972. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness.

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers.

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment.

(4) The provisions creating empowerment zones that were enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation, job creation, educational opportunities, and homeownership in designated enterprise communities and empowerment zones.

(b) PURPOSE.—The purpose of this subtitle is to increase job creation, small business expansion and formation, educational opportunities, and homeownership in economically depressed areas by providing Federal tax incentives, regulatory reforms, school reform pilot projects, and homeownership incentives.

CHAPTER 1—FEDERAL TAX INCENTIVES

SEC. 12973. AMENDMENTS TO SUBCHAPTER U.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas) is amended—

(1) by redesignating part IV as part V,

(2) by redesignating section 1397D as section 1397F, and

(3) by inserting after part III the following new part:

''PART IV—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

''SEC. 1397D. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY CAPITAL GAIN.

''(a) GENERAL RULE.—Gross income does not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

''(b) QUALIFIED ZONE ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified zone asset' means—

''(A) any qualified zone stock,

''(B) any qualified zone business property, and

''(C) any qualified zone partnership interest.

''(2) QUALIFIED ZONE STOCK.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

''(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397E ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397E.

''(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

''(3) QUALIFIED ZONE BUSINESS PROPERTY.—

''(A) IN GENERAL.—The term 'qualified zone business property' means tangible property if—

''(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone or enterprise community took effect,

''(ii) the original use of such property in the empowerment zone or enterprise community commences with the taxpayer, and

''(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in an enterprise zone business of the taxpayer.

''(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—

''(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

''(I) property which is substantially improved by the taxpayer, and

''(II) any land on which such property is located.

''(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone or enterprise community took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

''(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or

''(II) $5,000.

''(C) LIMITATION ON LAND.—The term 'qualified zone business property' shall not include land which is not an integral part of an enterprise zone business.

''(4) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

''(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

''(5) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of all prior holders.

''(6) 10-YEAR SAFE HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

''(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

''(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

''(2) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

''(3) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE DESIGNATION NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as an empowerment zone or enterprise community.

''(4) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

''(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' has the meaning given such term by section 1394(b)(3), except that, in applying section 1394(b)(3), the term 'qualified business' shall not include any trade or business of producing property of a character subject to the allowance for depletion under section 611.

''(d) TREATMENT OF PASS-THRU ENTITIES.—

''(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(C) shall apply for purposes of the preceding sentence.

''(2) INCOME INCLUSIONS.—

''(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

''(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

''(i) such amount is attributable to qualified capital gain recognized on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

''(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

''(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

''(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

''(A) any partnership,

''(B) any S corporation,

''(C) any regulated investment company, and

''(D) any common trust fund.

''(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

''(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397B(b) except that references to empowerment zones shall be treated as including references to enterprise communities), and

''(2) gain attributable to periods before the designation of an area as an empowerment zone or enterprise community.

''(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

''(1) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

''(A) having acquired such asset in the same manner as the transferor, and

''(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

''(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

''(A) by gift,

''(B) at death, or

''(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 5-year holding requirement).

''(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

''SEC. 1397E. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY STOCK.

''(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

''(b) LIMITATIONS.—

''(1) CEILING.—

''(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed—

''(i) $100,000 for any taxable year, and

''(ii) when added to the aggregate amount allowed as a deduction under this section in all prior years, $500,000.

''(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under—

''(i) subparagraph (A)(i), the amount of such excess shall be treated as an amount paid in the next taxable year, and

''(ii) subparagraph (A), the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

''(2) RELATED PERSON.—The taxpayer and members of the taxpayer's family shall be treated as one person for purposes of paragraph (1) and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock. For purposes of this paragraph, an individual's family includes only such individual's spouse and minor children.

''(3) PARTIAL TAXABLE YEAR.—If designation of an area as an empowerment zone or enterprise community occurs, expires, or is revoked pursuant to section 1391 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

''(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

''(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

''(A) such stock is acquired on original issue from the corporation, and

''(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

''(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—

''(A) IN GENERAL.—Such term shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified enterprise zone property.

''(B) QUALIFIED ENTERPRISE ZONE PROPERTY.—For purposes of this section, the term 'qualified enterprise zone property' means property to which section 168 applies (or would apply but for section 179)—

''(i) the original use of which commences in an empowerment zone or enterprise community with the issuer, and

''(ii) substantially all of the use of which is in such empowerment zone or enterprise community.

''(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

''(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

''(1) such corporation is a corporation described in section 1397B(b) (except that in applying such section the references to empowerment zones shall be treated as including references to enterprise communities) or, in the case of a new corporation, such corporation is being organized for purposes of being such a corporation,

''(2) such corporation does not have more than one class of stock,

''(3) the sum of—

''(A) the money,

''(B) the aggregate unadjusted bases of property owned by such corporation, and

''(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $50,000,000, and

''(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

''(e) DISPOSITIONS OF STOCK.—

''(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

''(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

''(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

''(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

''(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

''(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

''(A) IN GENERAL.—If—

''(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

''(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

''(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

''(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of such disposition by the taxpayer, and

''(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

''(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

''(i) determining the amount of any credit allowable under this chapter, and

''(ii) determining the amount of the tax imposed by section 55.

''(f) DISQUALIFICATION.—

''(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

''(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a designation as an empowerment zone or enterprise community, as the case may be.

''(g) OTHER SPECIAL RULES.—

''(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

''(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section.''

(b) ADDITIONAL EXPENSING.—Section 1397A (relating to increase in expensing under section 179) is amended—

(1) in subparagraph (A) of subsection (a)(1), by striking ''$20,000'' and inserting ''$35,000'', and

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

''(c) ENTERPRISE ZONE BUSINESS.—For purposes of this section, the term 'enterprise zone business' has the meaning given such term by section 1397B, except that in applying such section references to empowerment zones shall be treated as including references to enterprise communities.''

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking ''and'' at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting '', and''; and by adding at the end the following new paragraph:

''(26) to the extent provided in section 1397E(b), in the case of stock with respect to which a deduction was allowed or allowable under section 1397E(a).''

(d) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter U is amended by striking the item relating to part IV and inserting the following new items:

''Part IV. Additional incentives for empowerment zones and enterprise communities.

''Part V. Regulations.''

(2) The table of sections for part V of subchapter U of chapter 1, as redesignated by subsection (a)(1), is amended by redesignating the item relating to section 1397D as section 1397F.

(3) Section 1397F, as so redesignated, is amended by striking ''and III'' each place it appears and inserting '', III, and IV''.

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

SEC. 12974. COMMERCIAL REVITALIZATION TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the commercial revitalization credit.''

(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, except as provided in subsection (e), the commercial revitalization credit for any taxable year is an amount equal to the applicable percentage of the qualified revitalization expenditures with respect to any qualified revitalization building.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable percentage' means—

''(A) 20 percent, or

''(B) at the election of the taxpayer, 5 percent for each taxable year in the credit period.

The election under subparagraph (B), once made, shall be irrevocable.

''(2) CREDIT PERIOD.—

''(A) IN GENERAL.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service.

''(B) APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) and (4) of section 42(f) shall apply.

''(c) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES.—For purposes of this section—

''(1) QUALIFIED REVITALIZATION BUILDING.—The term 'qualified revitalization building' means any building (and its structural components) if—

''(A) such building is located in an eligible commercial revitalization area,

''(B) a commercial revitalization credit amount is allocated to the building under subsection (e), and

''(C) depreciation (or amortization in lieu of depreciation) is allowable with respect to the building.

''(2) QUALIFIED REHABILITATION EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

''(i) for property for which depreciation is allowable under section 168 and which is—

''(I) nonresidential real property, or

''(II) an addition or improvement to property described in subclause (I),

''(ii) in connection with the construction or substantial rehabilitation or reconstruction of a qualified revitalization building, and

''(iii) for the acquisition of land in connection with the qualified revitalization building.

''(B) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building for any taxable year shall not exceed $10,000,000, reduced by any such expenditures with respect to the building taken into account by the taxpayer or any predecessor in determining the amount of the credit under this section for all preceding taxable years.

''(C) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified revitalization expenditure' does not include—

''(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure (other than with respect to land acquisitions) with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

''(ii) ACQUISITION COSTS.—The costs of acquiring any building or interest therein and any land in connection with such building to the extent that such costs exceed 30 percent of the qualified revitalization expenditures determined without regard to this clause.

''(iii) OTHER CREDITS.—Any expenditure which the taxpayer may take into account in computing any other credit allowable under this part unless the taxpayer elects to take the expenditure into account only for purposes of this section.

''(3) ELIGIBLE COMMERCIAL REVITALIZATION AREA.—The term 'eligible commercial revitalization area' means an empowerment zone or enterprise community designated under subchapter U.

''(4) SUBSTANTIAL REHABILITATION OR RECONSTRUCTION.—For purposes of this subsection, a rehabilitation or reconstruction shall be treated as a substantial rehabilitation or reconstruction only if the qualified revitalization expenditures in connection with the rehabilitation or reconstruction exceed 25 percent of the fair market value of the building (and its structural components) immediately before the rehabilitation or reconstruction.

''(d) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

''(1) IN GENERAL.—Qualified revitalization expenditures with respect to any qualified revitalization building shall be taken into account for the taxable year in which the qualified rehabilitated building is placed in service. For purposes of the preceding sentence, a substantial rehabilitation or reconstruction of a building shall be treated as a separate building.

''(2) PROGRESS EXPENDITURE PAYMENTS.—Rules similar to the rules of subsections (b)(2) and (d) of section 47 shall apply for purposes of this section.

''(e) LIMITATION ON AGGREGATE CREDITS ALLOWABLE WITH RESPECT TO BUILDINGS LOCATED IN A STATE.—

''(1) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the commercial revitalization credit amount (in the case of an amount determined under subsection (b)(1)(B), the present value of such amount as determined under the rules of section 42(b)(2)(C)) allocated to such building under this subsection by the commercial revitalization credit agency. Such allocation shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

''(2) COMMERCIAL REVITALIZATION CREDIT AMOUNT FOR AGENCIES.—

''(A) IN GENERAL.—The aggregate commercial revitalization credit amount which a commercial revitalization credit agency may allocate for any calendar year is the amount of the State commercial revitalization credit ceiling determined under this paragraph for such calendar year for such agency.

''(B) STATE COMMERCIAL REVITALIZATION CREDIT CEILING.—

''(i) IN GENERAL.—The State commercial revitalization credit ceiling applicable to any State for any calendar year is $2,000,000 for each empowerment zone and enterprise community in the State designated under subchapter U.

''(ii) SPECIAL RULE WHERE ZONE OR COMMUNITY LOCATED IN MORE THAN 1 STATE.—If an empowerment zone or enterprise community is located in more than 1 State, a State's share of the amount specified in clause (i) with respect to such zone or community shall be an amount that bears the same ratio to $2,000,000 as the population in the State bears to the population in all States in which such zone or community is located.

''(iii) OTHER SPECIAL RULES.—Rules similar to the rules of subparagraphs (D), (E), (F), and (G) of section 42(h)(3) shall apply for purposes of this subsection.

''(C) COMMERCIAL REVITALIZATION CREDIT AGENCY.—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

''(f) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENCIES.—

''(1) PLANS FOR ALLOCATION.—Notwithstanding any other provision of this section, the commercial revitalization credit dollar amount with respect to any building shall be zero unless—

''(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

''(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

''(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

''(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization credit agency which are appropriate to local conditions,

''(B) which considers—

''(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for an eligible commercial revitalization area through a citizen participation process,

''(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

''(iii) the active involvement of residents and nonprofit groups within the eligible commercial revitalization area, and

''(C) which provides a procedure that the agency (or its agent) will follow in monitoring for compliance with this section.

''(g) TERMINATION.—This section shall not apply to any building placed in service after December 31, 2000.''

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

''(7) NO CARRYBACK OF SECTION 48A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to any commercial revitalization credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A.''

(2) Subparagraph (B) of section 48(a)(2) is amended by inserting ''or commercial revitalization'' after ''rehabilitation'' each place it appears in the text and heading thereof.

(3) Subparagraph (C) of section 49(a)(1) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) the basis of any qualified revitalization building attributable to qualified revitalization expenditures.''

(4) Paragraph (2) of section 50(a) is amended by inserting ''or 48A(d)(2)'' after ''section 47(d)'' each place it appears.

(5) Subparagraph (B) of section 50(a)(2) is amended by adding at the end the following new sentence: ''A similar rule shall apply for purposes of section 48A.''

(6) Paragraph (2) of section 50(b) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) a qualified revitalization building to the extent of the portion of the basis which is attributable to qualified revitalization expenditures.''

(7) Subparagraph (C) of section 50(b)(4) is amended by inserting ''or commercial revitalization'' after ''rehabilitated'' each place it appears in the text or heading thereof.

(8) Subparagraph (C) of section 469(i)(3) is amended—

(A) by inserting ''or section 48A'' after ''section 42''; and

(B) by striking ''CREDIT'' in the heading and inserting ''AND COMMERCIAL REVITALIZATION CREDITS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1995.

CHAPTER 2—REGULATORY FLEXIBILITY

SEC. 12975. DEFINITION OF SMALL ENTITIES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES FOR ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (5); and

(2) by striking paragraph (6) and inserting the following:

''(6) the term 'small entity' means—

''(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section; and

''(B)(i) any enterprise zone business (as defined by section 1394(b)(3) of the Internal Revenue Code of 1986);

''(ii) any unit of government that nominated an area which the appropriate Secretary designates as an empowerment zone

or enterprise community (within the meaning of section 1391 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone or community; and

''(iii) any not-for-profit enterprise carrying out a significant portion of its activities within such a zone or community.

For purposes of subparagraph (B)(ii), the term 'appropriate Secretary' has the meaning given such term by section 1393(a)(1) of the Internal Revenue Code of 1986.''

SEC. 12976. WAIVER OR MODIFICATION OF AGENCY RULES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding after section 612 the following new section:

''§ 613. Waiver or modification of agency rules in empowerment zones and enterprise communities

''(a) Upon the written request of any government which nominated an area that the appropriate Secretary has designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone or community, to waive or modify all or part of any rule which such agency has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone or community.

''(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

''(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the empowerment zone or enterprise community. If such a request is made to any agency other than the Department of Housing and Urban Development or the Department of Agriculture, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development or to the Secretary of Agriculture, whichever is appropriate, at the time the request is made.

''(d) Any petition for a modification or waiver shall—

''(i) identify the requirements for which the modification or waiver is sought;

''(ii) identify the existing or proposed business or type of business to which the modification or waiver would pertain;

''(iii) demonstrate that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve;

''(iv) demonstrate the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the empowerment zone or enterprise community against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change; and

''(v) demonstrate that the waiver or modification is necessary because the existing rule impedes the implementation of an existing or proposed business or type of business that furthers job creation, community development, or economic revitalization.

''(e) The agency may approve, in its discretion, a petition upon determining that the petition meets the above-stated criteria. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

''(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

''(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety or of environmental pollution.

''(f) A modified rule shall be enforceable as if it were the issuance of an amendment to the rule being modified or waived.

''(g) If a request is disapproved, the agency shall inform all the requesting governments, and the appropriate Secretary (as defined in section 1393(a)(1) of the Internal Revenue Code of 1986), in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

''(h) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petitions, the agency shall provide public notice and opportunity to comment. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of the applicability of such waiver or modification, consistent with the Administrative Procedure Act requirements.

''(i) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

''(j) No waiver or modification of a rule under this section shall remain in effect with respect to an empowerment zone or enterprise community after the zone or community designation has expired or has been revoked.

''(k) For purposes of this section, the term 'rule' means—

''(1) any rule as defined in section 551(4) of this title, or

''(2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.''

(b) CLERICAL AMENDMENT.—The analysis for chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 612, the following new item:

''613. Waiver or modification of agency rules in empowerment zones and enterprise communities.''

(c) CONFORMING AMENDMENTS.—

(1) Section 601(2) of such title 5 is amended by inserting ''(except for purposes of section 613)'' before ''means''.

(2) Section 612 of such title 5 is amended—

(A) in subsection (a), by inserting ''(except section 613)'' after ''chapter''; and

(B) in subsection (b), by inserting ''as defined in section 601(2)'' before the period at the end of the first sentence.

CHAPTER 3—RESIDENT MANAGEMENT AND HOMEOWNERSHIP INCENTIVES

SEC. 12977. ENTERPRISE ZONE OPPORTUNITY GRANTS.

(a) IN GENERAL.—Section 186 of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a) is amended by striking the section designation and the section heading and inserting the following:

''SEC. 186. ENTERPRISE ZONE GRANTS.''

(b) STATEMENT OF PURPOSE.—Section 186(a) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(a)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3)—

(A) by striking ''federally approved and equivalent State-approved''; and

(B) by striking the period at the end and inserting ''; and''; and

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

''(4) to encourage the development of resident management corporations and resident councils in enterprise zones.''

(c) DEFINITIONS.—Section 186(b) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(b)) is amended by adding at the end the following new paragraphs:

''(7) ENTERPRISE ZONE.—The term 'enterprise zone' means an area designated as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986.

''(8) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' has the same meaning as in section 24(h) of the United States Housing Act of 1937.''

(d) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—Section 186(c)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(c)(1)) is amended to read as follows:

''(1) IN GENERAL.—In carrying out this section, the Secretary may make grants to nonprofit organizations—

''(A) to carry out enterprise zone homeownership opportunity programs to promote homeownership in enterprise zones in accordance with this section; and

''(B) to promote the development of resident management corporations in enterprise zones.''

(e) ELIGIBLE USES OF ASSISTANCE.—Section 186(d) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(d)) is amended—

(1) in paragraph (1)—

(A) by striking ''assistance to provide'' and inserting the following: ''assistance to—

''(A) provide'';

(B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(B) to promote the development of resident management corporations in enterprise zones.''; and

(2) in paragraph (2), by striking ''under this subsection'' and inserting ''under paragraph (1)(A)''.

(f) PROGRAM REQUIREMENTS.—Section 186(e) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(e)) is amended—

(1) in paragraph (2), by striking ''under this section'' and inserting ''under subsection (d)(1)(A)''; and

(2) in paragraph (3), by striking ''federally approved or State-approved''.

(g) TERMS AND CONDITIONS OF ASSISTANCE.—Section 186(f)(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(f)(2)) is amended by striking ''under this section'' and inserting ''under subsection (c)(1)(A)''.

(h) PROGRAM SELECTION CRITERIA.—Section 186(g)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(g)(1))

is amended by striking ''under this section'' and inserting ''under subsection (d)(1)(A)''.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 186(i) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(i)) is amended to read as follows:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $100,000,000 for fiscal year 1997; and

''(2) such sums as may be necessary for each of fiscal years 1998, 1999, and 2000.''

CHAPTER 4—MODIFICATION OF CPI CALCULATION

SEC. 12978. MODIFICATION OF CPI CALCULATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, with respect to calculations made after December 31, 1995, the Bureau of Labor Statistics of the Department of Labor shall reduce the annual percentage change in the Consumer Price Indexes, as determined without regard to this section, by .05 percentage point.

(b) EXCEPTION.—The reduction described in subsection (a) shall not apply for purposes of calculating the cost-of-living increases under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.).

SIMON (AND OTHERS) AMENDMENT NO. 2990

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. Stevens, and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

On page 1771, line 25, strike ''1995'' and insert ''1997''.

On page 1772, line 3, strike ''1995'' and insert ''1997''.

BAUCUS AMENDMENT NO. 2991

Mr. BAUCUS proposed an amendment to the bill S. 1357, supra as follows:

On page 1469, strike lines 8 through 11, and insert the following:

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

''Taxable year:	Applicable Amount:
1996	$400
1997	450
1998 and thereafter	500.

On page 1470, line 7, strike ''$110,000'' and insert ''$90,000''.

On page 1470, line 9, strike ''$75,000'' and insert ''$55,000''.

On page 1470, line 11, strike ''$55,000'' and insert ''$45,000''.

On page 1472, strike the table between lines 10 and 11, and insert the following:

''For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,700
1997	7,050
1998	7,400
1999	7,850
2000	8,100
2001	8,500
2002	9,000
2003	9,400
2004	9,850
2005 and thereafter	10,800.''

On page 1530, strike lines 2 through 5, and insert the following:

''(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the first $100,000 of such gain shall be a deduction from gross income.

On page 1547, beginning on line 20, strike all through page 1550, line 12.

On page 1551, beginning on line 4, strike all through page 1553, line 10.

On page 1867, after line 20, insert the following:

SEC. 12879. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

There is hereby authorized to be appropriated and is appropriated for each fiscal year an amount equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendments made by amendment no. ———, offered on October ——, 1995, with respect to the Balanced Budget Reconciliation Act of 1995 to be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts which bear the same ratio as the balances in each Trust Fund.

REID (AND OTHERS) AMENDMENT NO. 2992

Mr. EXON (for Mr. REID for himself, Mr. BRYAN, Mr. BUMPERS, and Mr. CRAIG) proposed on amendment to the bill S. 1357, supra, as follows:

At the end of subchapter E of chapter 1 of subtitle J of title XII, insert the following new section:

SEC. . LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

§ 114. Limitation on State income taxation of certain pension income

''(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

''(b) For purposes of this section—

''(1) The term 'retirement income' means any income from—

''(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

''(B) a simplified employee pension as defined in section 408(k) of such Code;

''(C) an annuity plan described in section 403(a) of such Code;

''(D) an annuity contract described in section 403(b) of such Code;

''(E) an individual retirement plan described in section 7701(a)(37) of such Code;

''(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

''(G) a governmental plan (as defined in section 414(d) of such Code);

''(H) a trust described in section 501(c)(18) of such Code; or

''(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

''(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

''(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

''(2) The term 'income tax' has the meaning given such term by section 110(c).

''(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

''(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

''114. Limitation on State income taxation of certain pension income''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

D'AMATO AMENDMENT NO. 2993

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

On page 183, between lines 17 and 18, insert the following:

(C) EXEMPTION FOR CERTAIN NEWLY CHARTERED INSTITUTIONS.—

(i) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under subparagraph (A), the Board of Directors shall, by order, exempt any insured depository institution from payment of the special assessment if the institution was in existence on October 1, 1995, and held no Savings Association Insurance Fund insured deposits prior to January 1, 1993.

(ii) DEFINITION.—For purposes of this subparagraph, an institution shall be deemed to have held Savings Association Insurance Fund insured deposits prior to January 1, 1993, if it directly held Savings Association Insurance Fund insured deposits prior to that date, or it succeeded to, acquired, purchased, or otherwise holds any Savings Association Insurance Fund insured deposits as of the date of enactment of this Act that were Savings Association Insurance Fund insured prior to January 1, 1993.

On page 183, line 18, strike ''(C)'' and insert ''(D)''.

On page 199, line 9, insert ''and subsection (e)'' after ''subsection''.

On page 199, between lines 11 and 12, insert the following:

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(2) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking ''any deposit insurance fund in'' and inserting ''the Deposit Insurance Fund of''.

(4) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking ''Bank Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(B) by striking ''Federal Deposit Insurance Corporation, Savings Association Insurance Fund;''.

(5) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking ''SAIF'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(ii) by striking ''Savings Association Insurance Fund'' each place such term appears and inserting ''Deposit Insurance Fund'';

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking ''SAIF-INSURED BANKS'' and inserting ''CHARTER CONVERSIONS''; and

(ii) by striking ''Savings Association Insurance Fund member'' and inserting ''savings association'';

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting ''as of the date of funding'' after ''Savings Association Insurance Fund members'' each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(6) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking ''that is a member of the Bank Insurance Fund'';

(ii) in subsection (c)(6), by striking ''As used in this subsection—'' and inserting ''For purposes of this subsection, the following definitions shall apply:'';

(iii) in subsection (o)(1), by striking ''that is a Bank Insurance Fund member'';

(iv) in subsection (o)(2)(A), by striking ''a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member'' and inserting ''insured by the Deposit Insurance Fund'';

(v) in subsection (t)(5)(D)(iii)(II), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(vi) in subsection (t)(7)(C)(i)(I), by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''; and

(vii) in subsection (v)(2)(A)(i), by striking '', the Savings Association Insurance Fund'' and inserting ''or the Deposit Insurance Fund''; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding ''or'' at the end;

(ii) in subsection (e)(1)(A)(iv), by adding ''and'' at the end;

(iii) in subsection (e)(1)(B), by striking ''Savings Association Insurance Fund or Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(iv) in subsection (e)(2), by striking ''Savings Association Insurance Fund or the Bank Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(7) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking ''Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations'' and inserting ''Deposit Insurance Fund''; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking ''Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations'' and inserting ''Deposit Insurance Fund''.

(8) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

''(B) includes any former savings association.'';

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking ''the Bank Insurance Fund or the Savings Association Insurance Fund;'' and inserting ''Deposit Insurance Fund,'';

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking ''reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund'' and inserting ''the reserve ratio of the Deposit Insurance Fund'';

(ii) by striking subparagraph (B) and inserting the following:

''(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.'';

(iii) by striking ''(1) UNINSURED INSTITUTIONS.—''; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking ''each deposit insurance fund'' and inserting ''the Deposit Insurance Fund'';

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking ''each deposit insurance fund'' each place such term appears and inserting ''the Deposit Insurance Fund'';

(iii) in paragraph (2)(A)(iii), by striking ''a deposit insurance fund'' and inserting ''the Deposit Insurance Fund'';

(iv) in paragraph (2)(D) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) by striking ''any deposit insurance fund'' and inserting ''the Deposit Insurance Fund''; and

(II) by striking ''that fund'' each place such term appears and inserting ''the Deposit Insurance Fund'';

(v) by striking paragraph (2)(E) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act);

(vi) in paragraph (2)(F) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) in the subparagraph heading, by striking ''FUNDS ACHIEVE'' and inserting ''FUND ACHIEVES''; and

(II) by striking ''a deposit insurance fund'' and inserting ''the Deposit Insurance Fund'';

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking ''FUNDS'' and inserting ''FUND'';

(II) by striking ''that fund'' each place such term appears and inserting ''the Deposit Insurance Fund'';

(III) in subparagraph (A), by striking ''Except as provided in paragraph (2)(F), if'' and inserting ''If'';

(IV) in subparagraph (A), by striking ''any deposit insurance fund'' and inserting ''the Deposit Insurance Fund''; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

''(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B).''; and

(viii) in paragraph (6)—

(I) by striking ''any such assessment'' and inserting ''any such assessment is necessary'';

(II) by striking ''(A) is necessary—'';

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking ''; and'' and inserting a period;

(H) in section 7(d) (12 U.S.C. 1817(d)) (as added by section 3001(c)(1) of this Act)—

(i) in the subsection heading, by striking ''BANK'' and inserting ''DEPOSIT''; and

(ii) by striking ''Bank Insurance Fund'' each place such term appears and inserting ''Deposit Insurance Fund'';

(I) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking '', except that—'' and all that follows through the end of the paragraph and inserting a period;

(J) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraph (A)'';

(K) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking ''LIABILITIES.—'' and all that follows through ''Except'' and inserting ''LIABILITIES.—Except'';

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking ''the Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''the Deposit Insurance Fund'';

(L) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(M) in section 11A(f) (12 U.S.C. 1821a(f)), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(N) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,'';

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking ''FUNDS'' and inserting ''FUND''; and

(II) in clause (i), by striking ''any insurance fund'' and inserting ''the Deposit Insurance Fund'';

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking ''appropriate insurance fund'' and inserting ''Deposit Insurance Fund'';

(II) by striking ''the members of the insurance fund (of which such institution is a member)'' and inserting ''insured depository institutions'';

(III) by striking ''each member's'' and inserting ''each insured depository institution's''; and

(IV) by striking ''the member's'' each place such term appears and inserting ''the institution's'';

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking ''Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(vi) in subsection (k)(4)(B)(i), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(vii) in subsection (k)(5)(A), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(O) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(ii) by striking ''each such fund'' and inserting ''the Deposit Insurance Fund'';

(P) in section 14(b) (12 U.S.C. 1824(b)), by striking ''Bank Insurance Fund or Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(Q) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(R) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking ''BIF'' each place such term appears and inserting ''DIF''; and

(ii) by striking ''Bank Insurance Fund'' each place such term appears and inserting ''Deposit Insurance Fund'';

(S) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking ''the Bank Insurance Fund or Savings Association Insurance Fund, respectively'' each place such term appears and inserting ''the Deposit Insurance Fund''; and

(ii) in subparagraph (B), by striking ''the Bank Insurance Fund or the Savings Association Insurance Fund, respectively'' and inserting ''the Deposit Insurance Fund'';

(T) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking ''BIF, SAIF,'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(ii) in paragraph (1), by striking ''the Bank Insurance Fund, the Savings Association Insurance Fund,'' each place such term appears and inserting ''the Deposit Insurance Fund'';

(U) in section 17(d) (12 U.S.C. 1827(d)), by striking ''the Bank Insurance Fund, the Savings Association Insurance Fund,'' each place such term appears and inserting ''the Deposit Insurance Fund'';

(V) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking ''Savings Association Insurance Fund'' each place such term appears and inserting ''Deposit Insurance Fund''; and

(ii) in subparagraph (C), by striking ''or the Bank Insurance Fund'';

(W) in section 18(p) (12 U.S.C. 1828(p)), by striking ''deposit insurance funds'' and inserting ''Deposit Insurance Fund'';

(X) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking ''appropriate deposit insurance fund'' each place such term appears and inserting ''Deposit Insurance Fund'';

(Y) in section 28 (12 U.S.C. 1831e), by striking ''affected deposit insurance fund'' each place such term appears and inserting ''Deposit Insurance Fund'';

(Z) by striking section 31 (12 U.S.C. 1831h);

(AA) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund'';

(BB) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking ''FUNDS'' and inserting ''FUND'';

(CC) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking ''a deposit insurance fund'' and inserting ''the Deposit Insurance Fund''; and

(ii) in paragraph (2)(A)—

(I) by striking ''A deposit insurance fund'' and inserting ''The Deposit Insurance Fund''; and

(II) by striking ''the deposit insurance fund's outlays'' and inserting ''the outlays of the Deposit Insurance Fund''; and

(DD) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking ''ASSOCIATIONS.—'' and all that follows through ''Subsections (e)(2)'' and inserting ''ASSOCIATIONS.—Subsections (e)(2)'';

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

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(9) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund''; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund''.

(10) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking ''section 7(b)(2)(H)'' and inserting ''section 7(b)(2)(G)''.

(11) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act (12 U.S.C. 1841(j)(2)) is amended by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''.

On page 199, line 12, strike ''(e)'' and insert ''(f)''.

HUTCHISON (AND OTHERS) AMENDMENT NO. 2994

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of ''ethnic cleansing'' persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that ''girls as young as 17 are reported to have been taken into wooded areas and raped.'' Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as ''prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal.''

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of ''50 Years After Nuremburg'' on October 16, 1995, President Clinton cited the ''excellent progress'' of the War Crimes Tribunal for the former Yugoslavia and said, ''Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable.''

(10) President Clinton also observed on October 16, 1995, ''some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicted persons found in their territories.

(8) ethnic cleansing'' by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

HEFLIN (AND SHELBY) AMENDMENT NO. 2995

Mr. DOMENICI (for Mr. HEFLIN, for himself, and Mr. SHELBY) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1773, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

''(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

''(1) which is a wrongful death action, and

''(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2).''

(d) EFFECTIVE DATE.—

KENNEDY AMENDMENT NO. 2996

Mr. KENNEDY proposed an amendment to the bill S. 1357, supra, as follows:

On page 469, between lines 8 and 9, insert the following:

''(g) PROHIBITION OF BALANCE BILLING.—Notwithstanding any other provision of law an individual who is enrolled in a medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance and deductibles required by such plan in accordance with subsection (c)

D'AMATO (AND OTHERS) AMENDMENT NO. 2997

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. GRAMS, and Mr. SHELBY) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert:

SEC.—. SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

FAIRCLOTH AMENDMENT NO. 2998

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

On page 187, line 3:
Strike ''5'' and insert ''10.''

On page 187, line 22:
Strike ''5'' and insert ''10.''

FEINGOLD (AND OTHERS) AMENDMENT NO. 2999

Mr. FEINGOLD (for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, Mr. KOHN, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

On page 33, strike lines 21 through 24.

FEINGOLD (AND WELLSTONE) AMENDMENT NO. 3000

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking ''and uranium'' in subparagraph (A), and

(B) by striking ''asbestos,'', ''lead,'' and ''mercury,'' in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting ''other than lead, mercury, or uranium'' after ''metal mines''.

(3) Paragraph (4) of section 613(b) is amended by striking ''asbestos (if paragraph (1)(B) does not apply),''.

(4) Paragraph (7) of section 613(b) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) mercury, uranium, lead, and asbestos.''

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking ''lead,'' and ''uranium,''.

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

FEINGOLD AMENDMENT NO. 3001

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals with Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the ''Long-Term Care Reform and Deficit Reduction Act of 1995''.

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term ''institutional setting'', as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) Allocation.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

((B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provided for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this subtitle, the term ''individual with disabilities'' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUAL'S REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or curing with one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term ''activity of daily living'' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due

to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIRMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance of Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the Medicare program.

(g) PAYMENT FOR SERVICES.—IN ORDER TO PAY FOR COVERED SERVICES, A STATE PLAN MAY PROVIDE FOR THE USE OF—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term ''personal assistance services'' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term ''consumer-directed'' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term ''agency-administered'' means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term ''official poverty level applicable to a family of the size involved'' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COININSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less that 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325

percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representatives payees) of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term ''Federal home and community-based services matching percentage'' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000, $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATIONS.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection

(a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

KOHL AMENDMENT NO. 3002

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

''(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

''(b) ASSET ROLLOVER ACCOUNT.—

''(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

''(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

''(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

''(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

''(3) ANNUAL CONTRIBUTION LIMITATIONS.—

''(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

''(i) the qualified net farm gain for the taxable year, or

''(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

''(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

''(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

''(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

''(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

''(A) the net capital gain of the taxpayer for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

''(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

''(3) QUALIFIED FARMER.—

''(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

''(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

''(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

''(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

''(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

''(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

''(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

''(1) IN GENERAL.—Any individual who—

''(A) makes a contribution to any asset rollover account for any taxable year, or

''(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

''(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

''(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).''.

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.''.

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

''(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking ''or'' and inserting ''an asset rollover account (within the meaning of section 1034A), or''.

(B) The heading for section 4973 is amended by inserting ''ASSET ROLLOVER ACCOUNTS,'' after ''contracts''.

(C) The table of sections for chapter 43 is amended by inserting ''asset rollover accounts,'' after ''contracts'' in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting ''or a qualified contribution under section 1034A,'' before ''no contribution''.

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting ''or qualified contributions under section 1034A'' after ''rollover contributions''.

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(B) Section 6693(b)(2) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

''Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

''(a) GENERAL RULE.—

''(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

''(A) in the case of a nonresident alien individual, under section 871(b)(1), or

''(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

''(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

''(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

''(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

''(ii) the individual's net taxable stock gain for the taxable year.

''(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

''(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

''(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

''(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

''(b) 10-PERCENT SHAREHOLDER.—

''(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

''(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

''(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

''(2) CONSTRUCTIVE OWNERSHIP.—

''(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

''(B) MODIFICATIONS.—For purposes of subparagraph (A)—

''(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

''(ii) paragraph (3)(C) of section 318(a) shall be applied—

''(I) by substituting '10 percent' for '50 percent', and

''(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

''(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

''(A) IN GENERAL.—For purposes of this section, if—

''(i) a partnership is a 10-percent shareholder in any domestic corporation, and

''(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

''(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

''(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

''(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

''(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

''(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

''(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

''(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

''(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

''(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

''(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

''(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

''(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

''(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

''(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

''(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

''(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

''(ii) the extent to which—

''(I) transfers of property in a reorganization, and

''(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

''(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

''(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

''(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

''(1) any option or other right to acquire stock in a domestic corporation,

''(2) the conversion feature of any debt instrument issued by a domestic corporation, and

''(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

''(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

''(1) regulations coordinating the provisions of this section with the provisions of section 897, and

''(2) regulations aggregating stock held by a group of persons acting together.''

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

''(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

''(b) EXCEPTIONS.—

''(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

''(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

''(i) the transferor is not a foreign person, or

''(ii) the transferor is not a 10-percent shareholder, and

''(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

''(2) STOCK WHICH IS REGULARLY TRADED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

''(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

''(i) there is a disposition of regularly traded stock in a corporation, and

''(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

''(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

''(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

''(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

''(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

''(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

''(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

''(B) if there is no such United States person, the person prescribed in regulations.

''(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

''(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

''(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

''(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

''(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446.''

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

''(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

''(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

''(ii) section 899,''.

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking ''section 336'' and inserting ''section 302, 331, or 336''.

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders.''

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

''Sec. 1447. Withholding of tax on certain stock dispositions.''

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

''(c) LIMITATION ON TREATY BENEFITS.—

''(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

''(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

''(3) QUALIFIED RESIDENT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

''(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

''(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

''(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

''(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

''(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

''(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

''(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

''(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

''(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

''(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person.''

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

''(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident'

has the meaning given to such term by section 894(c)(3).''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

DOLE (AND OTHERS) AMENDMENT NO. 3003

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. KOHL, Mr. GRASSLEY, and Mr. ROTH) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of study which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent''.''

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.

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

COCHRAN (AND OTHERS) AMENDMENTS NO. 3004

Mr. COCHRAN (for himself, Mr. JEFFORDS, Mr. GORTON, Mr. LEAHY, Mr. COHEN, and Mr. SNOWE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 33, after line 24, insert the following:

(c) CLASS IV ACCOUNT.—Effective January 1, 1996, section 8c(5), of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following: ''Each marketing order issued pursuant to this section for milk and milk products shall include all skim milk and butterfat used to produce butter, nonfat dry milk, and dry whole milk as part of a Class IV classification.''; and

(2) by adding at the end the following:

''(M) CLASS IV ACCOUNT.—

''(i) DEFINITIONS.—In this paragraph:

''(I) ACCOUNT.—The term 'Account' means the Account for Class IV final products established under clause (ii).

''(II) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Account appointed under clause (vii).

''(III) CLASS IV FINAL PRODUCT.—The term 'Class IV final product' means butter, nonfat dry milk, and dry whole milk.

''(IV) MILK MARKETING ORDER.—The term 'milk marketing order' means a milk marketing order issued pursuant to this section and any comparable State milk marketing order or system.

''(ii) ESTABLISHMENT OF ACCOUNT.—Notwithstanding any other provision of law, the Secretary shall establish an Account for Class IV final products to equalize returns from all milk used in the 48 contiguous States to produce Class IV final products among all milk marketed by producers for commercial use.

''(iii) CLASS IV PRICE AND DIFFERENTIAL; PRORATION.—

''(I) PRICE.—The Secretary shall determine a milk equivalent value per hundredweight for Class IV final products each month based on the average wholesale market prices during the month for Class IV final products. The milk equivalent value at 3.67 percent milkfat shall be the per hundredweight Class IV price under the Account.

''(II) DIFFERENTIAL.—The Administrator of the Account shall announce, on the first business day of each month, the per hundredweight Class IV differential applicable to the preceding month. The monthly Class IV differential shall be the amount, if any, by which the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) exceeds the Class IV price established pursuant to subclause (I).

''(III) PRORATION.—On or before the twentieth day after the end of each month, the Administrator of the Account shall—

''(aa) determine the quantity of milk produced in the 48 contiguous States of the United States and marketed for commercial use in producing Class IV final products during the preceding month;

''(bb) calculate the quantity equal to the number of hundredweights of milk used for Class IV final products during the preceding month (as determined under item (aa)) multiplied by the Class IV differential for the month established under subclause (II), and add to that amount the cost of administering the Account during the current month; and

''(cc) prorate the amount established under item (bb) among the total amount, in hundredweights, of milk produced in the 48 contiguous States and marketed for commercial use during the preceding month.

''(iv) ACCOUNT OBLIGATIONS.—On or before the twenty-fifth day after the end of each month:

''(I) Each person making payment to a producer for milk produced in any of the 48 contiguous States of the United States and marketed for commercial use shall collect from each producer the amount determined by multiplying the quantity of milk handled for the account of the producer during the preceding month by the Class IV differential proration established pursuant to clause (iii)(III)(ccc). The amount shall be remitted to the Administrator of the Account.

''(II) Any producer marketing milk of the producer's own production in the form of milk or dairy products to consumers, either directly or through retail or wholesale outlets, shall remit to the Administrator of the Account the amount determined by multiplying the quantity of the milk marketed by the producer by the Class IV differential proration established under clause (iii)(III)(ccc).

''(v) DISTRIBUTION OF ACCOUNT PROCEEDS.—On or before the thirtieth day after the end of each month, the Administrator of the Account shall pay to each person that used skim milk and butterfat to produce Class IV final products during the preceding month a proportionate share of the total Account proceeds for the month. The proportion of the total proceeds payable to each person shall be the same proportion that the skim milk and butterfat used by the person to produce Class IV final products during the preceding month is of the total skim milk and butterfat used by all persons during the preceding month to produce Class IV final products.

''(vi) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order shall be adjusted to account for revenue distributions required under clauses (iv) and (v).

''(vii) ADMINISTRATION OF CLASS IV ACCOUNT.—The Secretary shall appoint a person to serve as the Administrator of the Account and shall delegate to the Administrator such powers as are needed to carry out the duties of Administrator.

''(viii) ENFORCEMENT.—

''(I) COLLECTION.—The amounts specified in clause (iv) shall be collected and remitted to the Administrator in the manner prescribed by the Secretary.

''(II) PENALTIES.—If any person fails to remit the amounts required under clause (iv) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subparagraph, the person shall be liable to the Secretary for a civil penalty up to, as determined by the Secretary, an amount determined by multiplying—

''(i) the quantity of milk involved in the violation; by

''(ii) the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) for the applicable calendar year.

''(III) ENFORCEMENT.—The Secretary may enforce this clause in the courts of the United States.

''(ix) REGULATIONS.—The Secretary shall issue regulations to establish the Account without regard to the notice and comment requirements of section 553 of title 5, United States Code.''.

(d) NORTHEAST INTERSTATE DAIRY COMPACT.—Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from projected fluid milk production for the fiscal year within the Compact region in excess of the national average rate of purchases of milk and milk products by the Corporation.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the compact Commission, and be reimbursed for the assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C.608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) TERMINATION AND RENEWAL.—The consent for the Compact shall—

(A) terminate on the date that is 7 years after the date of enactment of this Act, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior ratification by the States' legislatures.

On page 33, after line 24, insert the following:

(c) AGRICULTURAL COMPETITIVENESS GRANTS.—

The Secretary of Agriculture (referred to in this subtitle as the ''Secretary'') shall, in accordance with this subtitle, award a grant to a grantee eligible under section 1502 to promote a purpose of this subtitle.

(d) ELIGIBLE GRANTEE.—

The Secretary may make a grant under section 1501 to—

(1) a college or university;

(2) a State agricultural experiment station;

(3) a State Cooperative Extension Service;
(4) a research institution or organization;
(5) a private organization or person; or
(6) a Federal agency.
(e) USE OF GRANT.—
A grant made under section 1501 may be used by a grantee for 1 or more of the following uses:
(1) Research, ranging from discovery to principles of application.
(2) Extension and related private-sector activities.
(3) Education.
(f) PRIORITY.—
In administering this subtitle, the Secretary shall—
(1) establish priorities for allocating grants, based on needs and opportunities of the food and agriculture system in the United States;
(2) seek and accept proposals for grants;
(3) determine the relevance and merit of proposals through a system of peer review; and
(4) award grants on the basis of merit and quality.
(g) ADMINISTRATION.—
(1) COMPETITIVE GRANT.—A grant under section 1501 shall be awarded on a competitive basis.
(2) TERMS.—A grant under section 1501 shall have a term that does not exceed 5 years.
(3) MATCHING FUNDS.—As a condition of receipt of a grant under section 1501, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—
(1) for applied research that is commodity-specific; and
(2) not of national scope.
(4) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available under section 1506 for administrative costs incurred by the Secretary in carrying out this subtitle.
(5) CONSTRUCTION COSTS.—None of the funds made available under section 1507 may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).
(h) REGULATIONS.—
The Secretary shall issue such regulations as are necessary to carry out this subtitle.
(i) USE OF COMMODITY CREDIT CORPORATION FUNDS.—
(1) IN GENERAL.—Subject to subsection (b), the Secretary shall use $30,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2002 to carry out this title.
(2) LIMITATION.—The Secretary may use less than $30,000,000 of the funds of the Commodity Credit Corporation for any fiscal year if the Secretary determines that the full funding level is not necessary to fund all qualifying applications for agricultural competitiveness grants that satisfy the priority criteria established under section 1504.
(3) POWERS OF THE CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) (as amended by section 1201(c)(1)) is amended by inserting after subsection (g) the following:
''(4) Carry out research, extension, and education related to agriculture by using not more than $30,000,000 of the funds of the Corporation in any fiscal year for any function or activity relating to agricultural research, extension, or education.''.
(j) EFFECTIVE DATE.—
This subtitle and the amendment made by this subtitle shall become effective upon enactment.

CRAIG AMENDMENT NO. 3005

Mr. CRAIG proposed an amendment to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment;

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

''SEC. 24. ADOPTION EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.
''(b) LIMITATIONS.—
''(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.
''(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—
''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).''
(c) CONFORMING AMENDMENTS.—
(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:
''Sec. 24. Adoption expenses.''

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

''Sec. 137. Adoption assistance programs.
''Sec. 138. Cross reference to other Acts.''

(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995.''

Mr. President, I move to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

DOLE AMENDMENT NO. 3006

Mr. DOLE proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

''SEC. 24. ADOPTION EXPENSES.

''(a) ALLOWNACE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.
''(b) LIMITATIONS.—
''(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.
''(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with record to paragraph (1)) as—
''(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).''
(c) CONFORMING AMENDMENTS.—
(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:
''Sec. 24. Adoption expenses.''

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

''Sec. 137. Adoption assistance programs.''
''Sec. 138. Cross reference to other Acts.''

(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

LAUTENBERG AMENDMENT NO. 3007

Mr. LAUTENBERG proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

Strike all after instructions and insert the following: ''to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.''

NICKLES (AND OTHERS) AMENDMENT NO. 3008

Mr. NICKLES (for himself, Mr. DOLE, and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1332, beginning with line 5, strike all through page 1336, line 17.

MOYNIHAN AMENDMENT NO. 3009

Mr. MOYNIHAN proposed an amendment to the bill S. 1357, supra, as follows:

On page 541, strike line 10, and all that follows through page 542, line 8.

DOLE (AND OTHERS) AMENDMENT NO. 3010

Mr. DOMENICI (for Mr. DOLE for himself, Mr. KOHL, Mr. GRASSLEY, Mr. ROTH, Mr. BOND, Mr. ASHCROFT, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'.''

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2548) is hereby repealed.

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

Mr. President, the amendment that I am offering will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

D'AMATO AMENDMENT NO. 3011

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

GRASSLEY AMENDMENT NO. 3012

Mr. DOMENICI (for Mr. GRASSLEY) proposed an amendment to the bill S. 1357, supra, as follows:

On pages 764 and 765, section 2106. Medicaid Task Force, under subsection (c) ''ADVISORY GROUP FOR THE TASK FORCE'' add new number (14) to read:

''(14) AMERICAN OSTEOPATHIC ASSOCIATION''.

Redesignate old (14) to be (15);

Redesignate old (15) to be (16);

Redesignate old (16) to be (17);

Redesignate old (17) to be new (18).

BOXER AMENDMENT NO. 3013

Mr. DOMENICI (for Mrs. BOXER) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) Retroactive Pay Prohibited—No pay forfeited in accordance with subsection (a) may be paid retroactively.

GRAHAM AMENDMENT NO. 3014

Mr. DOMENICI (for Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra, as follows:

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

''(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

''(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

''(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

''(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

''(B) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

''(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

''(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

''(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

''(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

''(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the person's health in serious jeopardy,

''(B) serious impairment to bodily functions, or

''(C) serious dysfunction of any bodily organ or part.

HUTCHISON (AND OTHERS) AMENDMENT NO. 3015

Mr. DOMENICI (for Mrs. HUTCHISON for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS) proposed an amendment to the bill S. 1357, supra; as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soliders.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of ''ethnic cleansing'' persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that ''girls as young as 17 are reported to have been taken into wooded areas and raped.'' Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as ''prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal.''

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of ''50 Years After Nuremburg'' on October 16, 1995, President Clinton cited the ''excellent progress'' of the War Crimes Tribunal for the former Yugoslavia and said, ''Those accused of war crimes, crimes against humanity and genocide must be

brought to justice. They must be tried and, if found guilty, they must be held accountable.''

(10) President Clinton also observed on October 16, 1995, ''some people are concerned about pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovena.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) ethnic cleansing'' by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

KOHL AMENDMENT NO. 3016

Mr. DOMENICI (for Mr. KOHL) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

''SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

''(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

''(b) ASSET ROLLOVER ACCOUNT.—

''(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

''(c) CONTRIBUTION RULES.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

''(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

''(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

''(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

''(3) ANNUAL CONTRIBUTION LIMITATIONS.—

''(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

''(i) the qualified net farm gain for the taxable year, or

''(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

''(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

''(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

''(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

''(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

''(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

''(A) the net capital gain of the taxpayer for the taxable year, or

''(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

''(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

''(3) QUALIFIED FARMER.—

''(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

''(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

''(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

''(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

''(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

''(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

''(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

''(1) IN GENERAL.—Any individual who—

''(A) makes a contribution to any asset rollover account for any taxable year, or

''(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

''(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

''(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).''.

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

''(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.''.

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

''(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking ''or'' and inserting ''an asset rollover account (within the meaning of section 1034A), or''.

(B) The heading for section 4973 is amended by inserting ''**ASSET ROLLOVER ACCOUNTS**,'' after ''**CONTRACTS**''.

(C) The table of sections for chapter 43 is amended by inserting ''asset rollover accounts,'' after ''contracts'' in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting ''or a qualified contribution under section 1034A,'' before ''no contribution''.

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting ''or qualified contributions under section 1034A'' after ''rollover contributions''.

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(B) Section 6693(b)(2) is amended by inserting ''or 1034A(f)(1)'' after ''408(o)(4)''.

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

''Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

''(a) GENERAL RULE.—

''(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

''(A) in the case of a nonresident alien individual, under section 871(b)(1), or

''(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

''(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

''(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

''(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

''(ii) the individual's net taxable stock gain for the taxable year.

''(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

''(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

''(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

''(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

''(b) 10-PERCENT SHAREHOLDER.—

''(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

''(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

''(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

''(2) CONSTRUCTIVE OWNERSHIP.—

''(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

''(B) MODIFICATIONS.—For purposes of subparagraph (A)—

''(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

''(ii) paragraph (3)(C) of section 318(a) shall be applied—

''(I) by substituting '10 percent' for '50 percent', and

''(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

''(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

''(A) IN GENERAL.—For purposes of this section, if—

''(i) a partnership is a 10-percent shareholder in any domestic corporation, and

''(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

''(B) EXCEPTION.—

''(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

''(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

''(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

''(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

''(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

''(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

''(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

''(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

''(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

''(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

''(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

''(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

''(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

''(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

''(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

''(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

''(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

''(ii) the extent to which—

''(I) transfers of property in a reorganization, and

''(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

''(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

''(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

''(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

''(1) any option or other right to acquire stock in a domestic corporation,

''(2) the conversion feature of any debt instrument issued by a domestic corporation, and

''(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

''(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

''(1) regulations coordinating the provisions of this section with the provisions of section 897, and

''(2) regulations aggregating stock held by a group of persons acting together.''

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

''(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

''(b) EXCEPTIONS.—

''(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

''(A) the transferor furnishes to such withholding agent an affidavit by such transferor

stating, under penalty of perjury, that section 899 does not apply to such disposition because—

''(i) the transferor is not a foreign person, or

''(ii) the transferor is not a 10-percent shareholder, and

''(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

''(2) STOCK WHICH IS REGULARLY TRADED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

''(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

''(i) there is a disposition of regularly traded stock in a corporation, and

''(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

''(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

''(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

''(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

''(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

''(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

''(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

''(B) if there is no such United States person, the person prescribed in regulations.

''(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

''(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

''(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

''(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

''(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446.''

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

''(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

''(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

''(ii) section 899,''.

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking ''section 336'' and inserting ''section 302, 331, or 336''.

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders.''

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

''Sec. 1447. Withholding of tax on certain stock dispositions.''

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

''(c) LIMITATION ON TREATY BENEFITS.—

''(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

''(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

''(3) QUALIFIED RESIDENT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

''(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

''(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

''(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

''(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

''(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

''(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

''(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

''(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

''(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

''(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person.''

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

''(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3).''

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

SIMPSON (AND ROBB) AMENDMENT NO. 3017

Mr. DOMENICI (for Mr. SIMPSON for himself and Mr. ROBB) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

''(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.''.

WELLSTONE (AND CHAFEE) AMENDMENT NO. 3018

Mr. WELLSTONE (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

''The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3).''

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 3019

Mr. ROCKEFELLER (for himself, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of part B of title XXI of the Social Security Act, as added by section 7191, add the following new section:

''SEC. 2118. EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.

''(a) 12-MONTH EXTENSION.—

''(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title provide that each family which was receiving assistance pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such assistance, because of hours of, or income from, employment of the parent or caretaker relative (as defined in subsection (d)), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 12-month period in accordance with this subsection

''(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of assistance under part A of title IV sent to a family meeting the requirements of paragraph (1)—

''(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be modified or terminated and the reporting requirements under paragraph (5); and

''(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

''(3) MODIFICATION OR TERMINATION OF EXTENSION.—

''(A) MODIFICATION.—Subject to subparagraph (C), and, if the modification relates to the imposition of cost-sharing or premiums, subject to section 2113, the State may modify the terms of the extension of assistance during the 12-month period described in paragraph (1).

''(B) TERMINATION.—

''(i) NO DEPENDENT CHILD.—Subject to clause (ii) and subparagraph (C), extension of assistance during the 12-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child, whether or not the child is a needy child under part A of title IV.

''(ii) CONTINUTAION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of clause (i) but who may be eligible for assistance under the State plan because the child is described in section 2111(a)(2), the State may not discontinue such assistance under such clause until the State has determined that the child is not eligible for assistance under the plan.

''(C) NOTICE BEFORE MODIFICATION OR TERMINATION.—No modification or termination of assistance shall become effective under this paragraph until the State has provided the family with a 60-day notice of the grounds for the modification or termination, which notice shall include (in the case of termination) a description of how the family may reestablish eligibility for medical assistance under the State plan. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.

''(4) SCOPE OF COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), during the 12-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving assistance under the plan approved under part A of title IV.

''(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) non-acute care benefits.

''(C) STATE MEDICAID 'WRAP-AROUND' OPTION.—A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the parent or caretaker relative or by an employer of the absent parent of a needy child. In the case of such coverage offered by an employer of the parent or caretaker relative—

''(i) the State may require the parent or caretaker relative, as a condition of extension of coverage under this subsection for the parent or caretaker and the parent's or caretaker's family, to make application for such employer coverage, but only if—

''(I) the parent caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

''(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

''(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 2135).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

''(D) ALTERNATIVE ASSISTANCE.—At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

''(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option of the group health plan offered to the parent or caretaker relative.

''(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option within the options of the group health plan or plans offered by the State to State employees.

''(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the parent or caretaker relative and needy children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

''(iv) ENROLLMENT IN HMO, ETC.—Enrollment of the parent or caretaker relative and needy children in a capitated health care organization (as defined in section 2114(c)(1)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a capitated health care organization in accordance with section 2114.

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

''(5) REPORTING REQUIREMENTS.—Each State shall require (as a condition for extended assistance under this subsection) that a family receiving such extended assistance report to the State such eligibility verification as the State deems necessary. A State may permit such extended assistance under this subsection notwithstanding a failure to report under this paragraph if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.

''(b) APPLICABILITY IN STATES AND TERRITORIES.—

''(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

''(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.—The provisions of this section shall only apply to the 50 States and the District of Columbia.

''(c) GENERAL DISQUALIFICATION FOR FRAUD.—

''(1) INELIGIBILITY FOR ASSISTANCE.—This section shall not apply to an individual who is a member of a family which has received assistance under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such assistance before otherwise being provided extended eligibility under this section, the individual was ineligible for such assistance because of fraud.

''(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B.

''(d) CARETAKER RELATIVE DEFINED.—In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals With Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Community on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the ''Long-Term Care Reform and Deficit Reduction Act of 1995''.

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO CREATE A RIGHT TO SERVICES FOR INDIVIDUALS OR A REQUIREMENT THAT A STATE WITH AN APPROVED PLAN EXPEND THE ENTIRE AMOUNT OF FUNDS TO WHICH IT IS ENTITLED UNDER THIS SUBTITLE.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396d(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term ''institutional setting'', as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State Medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CASE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATE.—THE PLAN SHALL SPECIFY THE METHODS AND CRITERIA TO BE USED TO SET PAYMENT RATES FOR—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(A) IN GENERAL.—For purposes of this subtitle, the term ''individual with disabilities'' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hand-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term ''activity of daily living'' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBLITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to he extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term ''personal assistance services'' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term ''consumer-directed'' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term ''agency-administered'' means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term ''official poverty level applicable to a family of the size involved'' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on State or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training program for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applications and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits in made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term ''Federal home and community-based services matching percentage'' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and commuity-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000 $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle

for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

SEC. . It is the sense of the Senate that the Congress shall define a basic health benefit package for pregnant women, all children up to age 12 years, and individuals with disabilities living under 100% of federal poverty in order to ensure that these groups are entitled to a federal guarantee of health care services for a meaningful set of benefits.

HARKIN (AND OTHERS) AMENDMENT NO. 3020

Mr. HARKIN (for himself, Mr. DORGAN, Mr. WELLSTONE, Mr. DASCHLE, Mr. HEFLIN, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra, as follows:

(a) In Title I strike Subtitles A, B, and C and insert the following:

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SECTION 1001. SHORT TITLE.

This title may be cited as the ''Farm Security Act of 1995''.

Subtitle A—Commodity Programs

SEC. 1101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

''SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

''(a) DEFINITIONS.—In this section:

''(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

''(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

''(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

''(b) ADJUSTMENT ACCOUNT.—

''(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

''(A) in the case of wheat, 7/10 of a bushel;

''(B) in the case of corn, a bushel; and

''(C) in the case of other feed grains, a quantity determined by the Secretary.

''(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

''(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

''(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

''(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

''(A) $4,500,000,000 for fiscal year 1996; and

''(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

''(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

''(5) TIER 1 SUPPORT.—

''(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

''(i) the payment quantity determined under subparagraph (B); by

''(ii) the payment factor determined under subparagraph (C).

''(B) PAYMENT QUANTITY.—

''(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

''(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

''(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

''(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

''(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

''(C) PAYMENT FACTOR.—

''(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

''(I) the marketing loan rate for the crop of wheat; or

''(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

''(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

''(I) the marketing loan rate for the crop of corn; or

''(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

''(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

''(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

''(6) ENVIRONMENTAL RESERVE PROGRAM.—

''(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

''(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

''(c) MARKETING LOANS.—

''(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

''(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

''(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

''(4) REPAYMENT.—

''(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

''(i) the loan level determined for the crop; or

''(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

''(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

''(i) a formula to determine the prevailing domestic market price for each covered commodity; and

''(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

''(d) LOAN DEFICIENCY PAYMENTS.—

''(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

''(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

''(A) the loan payment rate; by

''(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

''(3) LOAN PAYMENT RATE.—

''(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

''(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

''(ii) the level at which a loan may be repaid under subsection (c)(4).

''(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

''(i) the date the producers lost beneficial interest in the crop; or

''(ii) the end of the marketing year for the crop.

''(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

''(e) PROGRAM COST LIMITATION.—

''(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

''(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

''(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

''(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

''(C) an acreage limitation program; or

''(D) any combination of actions described in subparagraphs (A), (B), and (C).

''(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

''(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

''(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

''(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

''(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

''(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

''(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

''(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

''(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.''.

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

''(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

''(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

''(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.''.

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—

''(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

''(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.''.

SEC. 1102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended—

(1) in the section heading, by striking ''1997'' and inserting ''2002'';

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking ''1997'' each place it appears and inserting ''2002'';

(3) in subsection (a)(5), by striking ''1998'' each place it appears and inserting ''2002'';

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking ''1997'' and inserting ''2002'';

(5) in subsection (e)(1)(D), by striking ''the 1997 crop'' and inserting ''each of the 1997 through 2002 crops''; and

(6) in subsections (e)(3)(A) and (f)(1), by striking ''1995'' each place it appears and inserting ''2002''.

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking ''85 percent'' and inserting ''77.5 percent for each of the 1996 through 2002 crops''.

SEC. 1103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441–2) is amended—

(1) in the section heading, by striking ''1995'' and inserting ''2002'';

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking ''1995'' each place it appears and inserting ''2002'';

(3) in subsection (a)(5)(D)(i), by striking ''1996'' and inserting ''2003''; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking ''AND 1995'' and inserting ''THROUGH 2002''; and

(ii) by striking ''and 1995'' and inserting ''through 2002''; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking ''1997'' each place it appears and inserting ''2002''; and

(ii) in the heading of clause (v)(II), by striking ''1997'' and inserting ''2002''.

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking ''85 percent'' and inserting ''77.5 percent for each of the 1998 through 2002 crops''.

SEC. 1104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(A) in the section heading, by striking ''1997'' and inserting ''2002'';

(B) in subsection (a)(1), (b)(1), and (h), by striking ''1997'' each place it appears and inserting ''2002''; and

(C) in subsection (g)—

(i) by striking ''1997'' in paragraphs (1) and (2)(A)(ii)(II) and inserting ''2002''; and

(ii) by striking ''the 1997 crop'' each place it appears and inserting ''each of the 1997 through 2002 crops''.

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

(i) in the section heading, by striking ''1997'' and inserting ''2002''; and

(ii) in subsections (a)(1), (b), and (f), by striking ''1997'' each place it appears and inserting ''2002'';

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking ''1995'' and inserting ''2002''; and

(ii) in subsection (c), by striking ''1995'' and inserting ''2002'';

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking ''1995'' and inserting ''2002''; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking ''1997'' and inserting ''2002''; and

(ii) in subsection (i), by striking ''1997'' and inserting ''2002''.

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(a)(2)) is amended—

(1) by striking ''(2) SUPPORT RATES.—The'' and inserting the following:

''(2) SUPPORT RATES.—

''(A) 1991–1995 CROPS.—The''; and

(2) by adding at the end the following:

''(B) 1996–2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.''.

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

''(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota.''; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking ''undermarketings and''; and

(B) in paragraph (3), by striking ''(including any applicable undermarketings)''.

SEC. 1105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking ''1996'' and inserting ''2002'';

(2) in subsections (a), (b), (f), (g), and (k), by striking ''1996'' each place it appears and inserting ''2002'';

(3) in subsection (h)(2)(C), by striking ''and 1997'' and inserting ''through 2002''.

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking ''Subject to subparagraph (B), the'' and inserting ''The'';

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 1106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

''SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

''(a) DEFINITIONS.—In this section:

''(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

''(2) MAJOR COUNTRY.—The term 'major country' includes—

''(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

''(B) a country of the European Union; and

''(C) the People's Republic of China.

''(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

''(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

''(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

''(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

''(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

''(e) ADJUSTMENT IN SUPPORT LEVEL.—

''(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

''(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

''(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

''(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

''(f) LOAN TYPE; PROCESSOR ASSURANCES.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

''(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

''(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that

receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

''(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

''(h) LOAN TERM.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

''(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

''(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

''(1) be made at the loan rate in effect at the time the second loan is made; and

''(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

''(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

''(k) MARKETING ASSESSMENTS.—

''(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

''(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

''(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

''(4) COLLECTION.—

''(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

''(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

''(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

''(A) the quantity of sugar involved in the violation; by

''(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

''(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

''(l) INFORMATION REPORTING.—

''(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

''(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

''(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

''(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

''(m) SUGAR ESTIMATES.—

''(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

''(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

''(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.''.

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 1107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

''SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

''(a) LOSS.—

''(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

''(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

''(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

''(2) ADJUSTMENTS TO LOAN LEVEL.—

''(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

''(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

''(C) ADJUSTMENT FOR QUALITY.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

''(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

''(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

''(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

''(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

''(4) TERM OF LOAN.—

''(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

''(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

''(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

''(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

''(A) the loan level determined for the marketing year; or

''(B) the higher of—

''(i) the loan level determined for the marketing year multiplied by 70 percent; or

''(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

''(6) PREVAILING WORLD MARKET PRICE.—

''(A) IN GENERAL.—The Secretary shall prescribe by regulation—

''(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

''(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

''(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

''(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

''(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

''(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

''(I) The United States share of world exports.

''(II) The current level of wool export sales and wool export shipments.

''(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

''(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

''(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

''(b) LOAN DEFICIENCY PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

''(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

''(A) the loan payment rate; by

''(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

''(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

''(A) the loan level determined for the marketing year under subsection (a); exceeds

''(B) the level at which a loan may be repaid under subsection (a).

''(c) DEFICIENCY PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

''(A) the payment rate; by

''(B) the payment quantity of wool for the marketing year.

''(2) PAYMENT RATE.—

''(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

''(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

''(ii) the loan level determined for the marketing year.

''(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

''(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

''(d) EQUITABLE RELIEF.—

''(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

''(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

''(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

''(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

''(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

''(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

''(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

''(j) CROSS-COMPLIANCE.—

''(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

''(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

''(k) LIMITATION ON OUTLAYS.—

''(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

''(A) $75,000,000, during any single marketing year; or

''(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

''(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

''(3) PERSON LIMITATION.—

''(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

''(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

''(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.''.

SEC. 1108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled ''A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended'', approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking ''1996'' and inserting ''2002''.

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking ''oilseeds'' and all that follows through ''determine),''.

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before ''all brokers and dealers in peanuts'' the following: ''all producers engaged in the production of peanuts,''.

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 1109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking ''1997'' each place it appears and inserting ''2002''; and

(2) in subsection (b), by striking ''1995'' and inserting ''2002'';

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking ''1995'' and inserting ''2002''.

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking ''1995'' and inserting ''2002''.

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking ''1995'' and inserting ''2002''.

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking ''1997'' each place it appears and inserting ''2002'';

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking ''1997'' each place it appears and inserting ''2002''; and

(3) in section 509 (7 U.S.C. 1469), by striking ''1997'' and inserting ''2002''.

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking ''1997'' each place it appears and inserting ''2002''.

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking ''1995'' each place it appears in subsections (a), (b)(1), and (c) and inserting ''2002''.

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking ''1995'' each place it appears and inserting ''2002''; and

(2) in section 1154(b)(1)(A), by striking ''1995'' each place it appears and inserting ''2002''.

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking ''1995'' each place it appears and inserting ''2002''.

SEC. 1110. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 1201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

''CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

''SEC. 1238. DEFINITIONS.

''In this chapter:

''(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

''(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

''(A) is a confined animal feeding operation; and

''(B) has more than—

''(i) 700 mature dairy cattle;

''(ii) 1,000 beef cattle;

''(iii) 100,000 laying hens or broilers;

''(iv) 55,000 turkeys;

''(v) 2,500 swine; or

''(vi) 10,000 sheep or lambs.

''(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

''(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

''(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

''SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

''(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

''(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

''(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

''(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

''(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

''(b) APPLICATION AND TERM.—

''(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

''(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

''(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

''(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

''(c) COST-SHARING AND INCENTIVE PAYMENTS.—

''(1) COST-SHARING PAYMENTS.—

''(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

''(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

''(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

''(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

''(d) TECHNICAL ASSISTANCE.—

''(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

''(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

''(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

''(1) $200,000,000 for fiscal year 1997; and

''(2) $250,000,000 for each of fiscal years 1998 through 2002.

''(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

''SEC. 1238B. CONSERVATION PRIORITY AREAS.

''(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota,

South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

''(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

''SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

''(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

''(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

''(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

''(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

''SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

''(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

''(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

''(1) farming or ranching practices on the farm;

''(2) characteristics of natural resources on the farm;

''(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

''(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

''(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

''SEC. 1238E. LIMITATION ON PAYMENTS.

''(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

''(1) $10,000 for any fiscal year; or

''(2) $50,000 for any multiyear contract.

''(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

''(1) defining the term 'person' as used in subsection (a); and

''(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).''.

(b) Strike sections 12161 and 12162.

WELLSTONE (AND LIEBERMAN) AMENDMENT NO. 3021

Mr. WELLSTONE (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 1357, supra as follows:

SEC. 1. PAYMENT LIMITATION.

Strike section 1110 and insert the following:

''SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

''(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

''(1) LIMITATION.—

''(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446f) may not exceed $40,000.

''(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

''(b) CONFORMING AMENDMENTS.—

''(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(a)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

''(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

''(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103(B)(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'

''(4) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'.''

SEC. 2. COMMODITY PROGRAMS.

(a) Strike section 1103(4)(C)(ii)(I) and insert the following:

''(I) by striking '85 percent' and inserting '72.5 percent';''.

(b) Strike section 1104(4)(C)(ii)(I) and inserting the following:

''(I) by striking '85 percent' and inserting '72.5 percent';''.

(c) Strike section 1105(4)(C)(ii)(I) and inserting the following:

''(I) by striking '85 percent' and inserting '72.5 percent';'' and

(d) Strike section 1106(4)(C)(ii)(I) and inserting the following:

''(I) by striking '85 percent' and inserting '72.5 percent'.''.

SEC. 3. CONSERVATION RESERVE PROGRAM.

Amend section 1201(a) by striking ''(1) $1,787,000,000 for fiscal year 1996'' and all that follows through ''$974,000,000 for fiscal year 2002'' and insert the following—

''(1) $1,802,000,000 for the fiscal year 1996;

''(2) $1,811,000,000 for the fiscal year 1997;

(3) ''$1,476,000,000 for the fiscal year 1998;

(4) ''$1,277,000,000 for the fiscal year 1999;

(5) ''$1,131,000,000 for the fiscal year 2000;

(6) ''$1,029,000,000 for the fiscal year 2001; and

(7) ''$1,004,000,000 for the fiscal year 2002.''

BROWN AMENDMENT NO. 3022

Mr. DOMENICI (for Mr. BROWN) proposed an amendment to the bill S. 1357, supra; as follows:

On page 13, strike line 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (related to the Acquisition and Maintenance of Buildings Abroad'' account).

BRADLEY AMENDMENT NO. 3023

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5400 and 5401.

LEAHY AMENDMENT NO 3024

Mr. EXON (for Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 103, on line 6, strike ''(D)'' and insert ''(E)''.

On page 103, strike line 5 and insert the following:

''(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or''

On page 130, strike line 14 and insert the following:

''SEC. 1430. PROVIDING FUNDING FOR AMERICA SAMOA.

''Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96–597 during that fiscal year.'.''.

SEC. 1431. EFFECTIVE DATE.''

On page 152, line 7, strike ''December 31, 1995'' and insert ''November 30, 1995''.

On page 152, line 8, strike ''January 1, 1996'' and insert ''December 1, 1995''.

BUMPERS (AND OTHERS) AMENDMENT NO. 3025

Mr. BUMPERS (for himself, Mr. BRADLEY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike pages 360–382 and insert the following in lieu thereof:

(50 U.S.C. App. sec. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7 million per year, the remainder of the proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy shall draw down and sell 7 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility.

SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 to 6422) is amended by adding the following new section after section 167:

"SEC. 168. USE OF UNDERUTILIZED FACILITIES.

''(a) Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

''(b) Petroleum product stored under this section is not part of the Reserve and may be exported from the United States.''.

''(c) Beginning in fiscal year 2001 and in each fiscal year thereafter, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.''.

Subtitle H—Mining

SEC. 5700. SHORT TITLE.

This subtitle may be cited as ''The Mining Law Revenue Act of 1995''.

SEC. 5701. DEFINITIONS.

When used in this subtitle:

(1) ''Assessment year'' means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) ''Federal lands'' means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) ''General mining laws'' means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(4) ''Locatable minerals'' means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this Subtitle, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) ''Mineral activities'' means any activity on Federal lands related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral, or reclamation of the impacts of such activities.

(6) ''Mining claim or site'', except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) ''Operator'' means any person conducting mineral activities subject to this Subtitle.

(8) ''Person'' means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(10) ''Secretary'' means the Secretary of the Interior.

SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEE.—After the date of enactment of this Subtitle, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Subtitle, shall pay in advance to the Secretary annually on or before September 1, and until a patent has been issued therefor, a maintenance fee of $100 per mining claim or site. The owner of each unpatented mining claim or site located after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), in addition to the location fee required under subsection (c) of this section, an initial maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site. If a mining claim or site is located within 90 days before September 1 and the copy of the notice or certificate of location is timely filed with the Bureau of Land Management under subsection 314(b) of the Federal Land Policy and Management Act of 1976 after September 1, the annual maintenance fee payable under the first sentence of this subsection shall be paid at the time such notice or certificate of location is filed, in addition to the location fee and the initial $100 maintenance fee. No maintenance fee shall be required if the fee is waived or the owner of the mining claim or site is exempt as provided in section 5703 of this Subtitle.

(b) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. Such statement may include the name of the mining claim or site, the serial number assigned by the Secretary to such mining claim or site, the description of the book and page in which the notice or certificate of location for such mining claim or site is recorded under State law, any combination of the foregoing, or any other information that reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(c) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per claim.

(d) CREDIT AGAINST ROYALTY.—The annual claim maintenance fee paid for any unpatented mining claim or site on or before September 1 of any year shall be credited against the amount of royalty required to be paid under Section 5705 for such mining claim or site during the following assessment year.

(e) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay the claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under subsection (a) or subsection (c) of this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: *Provided, however*, That, if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection (a) or subsection (c) of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(f) REPEAL OF OMNIBUS BUDGET RECONCILIATION ACT FEE REQUIREMENTS.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f through 28k) are hereby repealed.

(g) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314 (a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed.

SEC. 5703. WAIVER AND EXEMPTION.

(a) WAIVER OF FEE.—The maintenance fee provided for in subsection 5702(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(b) RELATED PERSONS.—As used in subsection (a), the term ''related persons'' includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(c) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or

inaction of any local, State, or Federal Governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the maintenance fee requirement of subsection (a) of section 5702 for the assessment year following the filing of the certification.

SEC. 5704. PATENTS.

(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this Subtitle shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) RIGHT OF REENTRY.—

(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, a patent issued pursuant to this section shall be subject to a right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mineral activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(2) If the surface of the patented estate is used by the patentee, or any subsequent owners, for any purpose other than for conducting mineral activities in good faith, the Secretary shall serve on all owners of interests in such patented estate, in the manner prescribed for service of a summons and complaint under the Federal Rules of Civil Procedure, notice specifying such unauthorized use and providing not more than 90 days in which such unauthorized use must be terminated. The giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate. The Secretary may exercise the right of reentry as provided in paragraph (3) of this subsection if such unauthorized use has not been terminated in the time provided in this paragraph, and only after all appeal rights have expired and any appeals of such notice have been finally determined.

(3) The Secretary may exercise the right of the United States to reenter such patented estate by filing a declaration of reentry in the office of the Bureau of Land Management designated by the Secretary and recording such declaration where the notice or certificate of location for the patented claim or site is recorded under State law. Upon the filing and recording of such declaration, all right, title and interest in such patented estate shall revert to the United States. Lands and interests in lands for which the United States exercises its right of reentry under this section shall remain open to the location of mining claims and mill sites, unless withdrawn under other applicable law.

(c) PATENT TRANSITION.—Notwithstanding any other provision of law, the requirements of this subtitle (except the payment of maintenance and location fees in accordance with sections 5702 and 5703) shall not apply to those patent applications pending at the Department of the Interior as of September 30, 1995. Such patents shall be issued under or subject to the general mining laws in effect prior to the date of enactment of this subtitle.

SEC. 5705. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Production of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5704(c) applies) or any mining claim patented under subsection 5704(a), including mineral concentrates and products derived from locatable minerals, shall be subject to the payment of a royalty of 2.5 percent on the Net Smelter Return of all ores, minerals, metals, and materials mined and removed and sold.

(2) WAIVER.—If the Secretary determines that the Secretary's cost of accounting for and collecting a royalty for any mineral exceeds or is likely to exceed the amount of royalty to be collected, the Secretary shall waive such royalty. The obligation to pay royalties hereunder shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) EXEMPTION.—Any mine with an annual Revenues Received of less than $500,000 shall be exempt from the requirement to pay a royalty under this section.

(5)REVENUES RECEIVED.—All Revenues Received shall be determined in accordance with generally accepted accounting principles and practices consistently applied. Revenues Received shall be determined by the accrual method.

(7) COMMINGLING.—The payor shall have the right to commingle ore and minerals from the claim, group of claims, or patent comprising an operation, with ore from other lands and properties: *Provided, however,* That the payor shall calculate from representative samples the average grade of the ore before commingling. If concentrates are produced from the commingled ores, the payor shall calculate from representative samples calculating the average grade of the ore, and calculating average recovery percentages the payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

(8) EFFECTIVE DATE.—

(A) IN GENERAL.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(C) TIME FOR PAYMENT.—Any royalty payment attributable to production during the first 15 calendar months after the date of enactment of this subtitle shall be due on the date that is 12 months after the date of enactment of this subtitle.

(10) SPLIT ESTATES.—For circumstances where a claim, group of claims or patent is subject to this section but does not comprise the entirety of a mine, the Annual Revenues and Costs of Produc- * * *

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3026

Mr. DOMENICI (for Mr. BINGAMAN, for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R)) is amended by striking ''section 1869(b)'' and inserting ''section 1869 (a) or (b)''.

LOTTS (AND JEFFORDS) AMENDMENT NO. 3027

Mr. DOMENICI (for Mr. LOTT, for himself and Mr. JEFFORDS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

''SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

''(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

''(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

''(1) not more than $500,000 to acquire sites at Malvern hill, Virginia;

''(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

''(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

''(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

''(5) not more than $500,000 to acquire sites at Resaca, Georgia;

''(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

''(7)not more than $250,000 to acquire sites at Perryville, Kentucky;

''(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

''(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and

''(10) not more than $250,000 to acquire sites at Glendale, Virginia.''.

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the ''Foundation'') shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

BUMPERS (AND OTHERS) AMENDMENT NO. 3028

Mr. BUMPERS (for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of the bill add the following new title:

''TITLE XIII—BUDGET PROCESS

''For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues.''

BIDEN AMENDMENT NO. 3029

Mr. BIDEN proposed an amendment to the bill S. 1357, supra; as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

''(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

''(1) is eligible for burial in a national cemetery under section 2402 of this title, and

''(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.''.

BUMPERS (AND OTHERS) AMENDMENT NO. 3030

Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike ''for'' on line 4 of page 369 through ''thereby'' on line 19 on page 395.

BRADLEY AMENDMENT NO. 3031

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking ''$345,800'' and inserting ''$780,800''.

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

''(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate.''

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.'',

(2) by striking subparagraph (B),

(3) by striking ''any corporation'' in subparagraph (D)(i) and inserting ''any entity'', and

(4) by redesigning subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

One page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

''(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor but)—

''(A) the notice of election, as filed, does not contain all required information, or

''(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

BRADLEY (AND HARKIN) AMENDMENT NO. 3032

Mr. BRADLEY (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

''SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702.''

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

''(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995.''

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

''Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses.''

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

DORGAN (AND OTHERS) AMENDMENT NO. 3033

Mr. DORGAN (for himself, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill S. 1357, supra, as follows:

AMENDMENT NO. 3033

Strike section 12141 and insert:

SEC. 12141. CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

''SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

''(1) the qualified capital gain of the taxpayer for the taxable year, or

''(2) the excess of—

''(A) $250,000, over

''(B) the aggregate amount allowable as a deduction under this section for prior taxable years.

''(b) QUALIFIED CAPITAL GAIN.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified capital gain' means the lesser of—

''(A) the net capital gain for the taxable year, or

''(B) gain for the taxable year from sales or exchanges after October 13, 1995, of capital assets held more than 10 years.

''(2) SALES BETWEEN RELATED PARTIES.—Gains from sales and exchanges to any related person (within the meaning of section 267(b) or 707(b)(1)) shall not be taken into account in determining qualified capital gain.

''(3) SPECIAL RULE FOR SECTION 1250 PROPERTY.—Solely for purposes of this section, in applying section 1250 to any disposition of section 1250 property, all depreciation adjustments in respect of the property shall be treated as additional depreciation.

''(c) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

''(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

''(2) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

''(3) an estate or trust.

''(d) SPECIAL RULES.—

''(1) JOINT RETURNS.—The amount of the qualified capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under subsection (a)(2) for any succeeding taxable year.

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

''(A) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

''(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.

''(e) TRANSITIONAL RULE.—

''(1) IN GENERAL.—In the case of a taxable year which includes October 14, 1995, the

amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 14, 1995.''

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

''(h) MAXIMUM CAPITAL GAINS RATE.—

''(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

''(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

''(i) taxable income reduced by the amount of the net capital gain, or

''(ii) the amount of taxable income taxed at a rate below 28 percent, plus

''(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

''(2) COORDINATION WITH OTHER PROVISIONS.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced (but not below zero) by the sum of—

''(A) the amount of the qualified capital gain (as defined in section 1202(b)) for the taxable year to the extent taken into account under section 1202(a) for the taxable year, plus

''(B) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii).''

(c) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

''(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.''

(d) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1) (relating to limitations on deductions of individuals) is amended by adding at the end the following new subparagraph:

''(G) CAPITAL GAINS DEDUCTION REDUCED.—In determining the deduction allowable under section 1202, section 1202(a) shall be applied by substituting '25 percent' for '50 percent' ''.

(2) CONFORMING AMENDMENT.—Section 57(a)(7) is amended by striking ''1202'' and inserting ''1203''.

(e) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

''(12) SPECIAL RULE FOR COLLECTIBLES.—

''(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

''(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

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

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: ''For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).''

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: ''and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)''.

(f) TECHNICAL AND CONFORMING CHANGES.—

(1) Clause (iii) of section 163(d)(4)(B) is amended to read as follows:

''(iii) the sum of—

''(I) the portion of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

''(II) so much of the gain described in subclause (I) which is not taken into account under section 1202 and which the taxpayer elects to take into account under this clause.''

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed.''

(3) The last sentence of section 453A(c)(3) is amended by striking all that follows ''long-term capital gain,'' and inserting ''the maximum rate on net capital gain under section 1201 or the deduction under section 1202 and the exclusion under section 1203 (whichever is appropriate) shall be taken into account.''

(4) Paragraph (4) of section 642(c) is amended to read as follows:

''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(5) The last sentence of section 643(a)(3) is amended to read as follows: ''The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.''

(6) Subparagraph (C) of section 643(a)(6) is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account''.

(7) Paragraph (4) of section 691(c) is amended inserting ''1203,'' after ''1202,''.

(8) The second sentence of section 871(a)(2) is amended by inserting ''or 1203'' after ''section 1202''.

(9)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.''

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

''(A) CORPORATIONS.—In the case of a corporation—'', and

(ii) by striking in clause (i) ''in lieu of applying subparagraph (A),''.

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

''(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).''

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking ''if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,'', and

(ii) by striking ''section 904(b)(3)(E)'' and inserting ''section 904(b)(3)(D)''.

(10) The last sentence of section 1044(d) is amended by striking ''1202'' and inserting ''1203''.

(11)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

''(2) the sum of—

''(A) the excess of the net short-term capital loss over the net long-term capital gain, and

''(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.''

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

''(2) SPECIAL RULES.—

''(A) ADJUSTMENTS.—

''(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

''(II) the adjusted taxable income for such taxable year.

''(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

''(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.''

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

''(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total

of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.''

(12) Paragraph (1) of section 1402(i) is amended by inserting '', and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply'' before the period at the end thereof.

(13) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking ''35 percent (or, to the extent provided in regulations, 28 percent)'' and inserting ''28 percent (or, to the extent provided in regulations, 19.8 percent)'', and

(B) in paragraph (2) by striking ''35 percent'' and inserting ''28 percent''.

(14)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) applies'', and

(ii) by striking ''28 percent (34 percent in the case of a corporation'' and inserting ''19.8 percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)''.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) of such Code applies'', and

(ii) by striking ''28 percent (34 percent in the case of a corporation'' and inserting ''19.8 percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)''.

(15) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

''(l) CROSS REFERENCE.—

''For treatment of eligible gain not excluded under subsection (a), see section 1202.''

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

''Sec. 1202. Capital gains deduction.

''Sec. 1203. 50-percent exclusion for gain from certain small business stock.''

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) COLLECTIBLES.—The amendments made by subsection (e) shall apply to sales and exchanges after October 13, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (f)(11) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (f)(13) shall apply only to amounts paid after the date of the enactment of this Act.

On page 1703, between lines 17 and 18, insert:

(g) CITIZENS BECOMING COVERED EXPATRIATES TO BE TAXED AS RESIDENTS UPON RETURN TO UNITED STATES.—Paragraph (3) of section 7701(b) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR COVERED EXPATRIATES.—Notwithstanding any other provision of this paragraph, in the case of an individual who is treated as a covered expatriate under section 877A by reason of relinquishing the individual's United States citizenship, such individual shall be treated as meeting the substantial presence test of this paragraph with respect to any calendar year if the individual is present in the United States for more than 30 days during the calendar year. The preceding sentence shall not apply to the extent that the Secretary determines its application would contravene any treaty of the United States.''

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that (a) the Senate conferees should not recede to the House on the provisions of this chapter eliminating the tax loophole for billionaires and other wealthy individuals who renounce their United States citizenship in order to avoid their fair share of United States taxes; and (b) the Senate reaffirms its commitment to eliminate this tax loophole.

FEINGOLD (AND OTHERS) AMENDMENT NO. 3034

Mr. FEINGOLD (for himself, Mr. WELLSTONE, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking ''and uranium'' in subparagraph (A), and

(B) by striking ''asbestos,'', ''lead,'', and ''mercury,'' in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting ''other than lead, mercury, or uranium'' after ''metal mines''.

(3) Paragraph (4) of section 613(b) is amended by striking ''asbestos (if paragraph (1)(B) does not apply),''.

(4) Paragraph (7) of section 613(b) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) mercury, uranium, lead, and asbestos.''

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking ''lead,'' and ''uranium,''.

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

SIMON (AND OTHERS) AMENDMENT NO. 3035

Mr. SIMON (for himself, Mr. STEVENS, and Mr. BREAUX) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1771, line 25, strike ''1995'' and insert ''1997''.

On page 1772, line 3, strike ''1995'' and insert ''1997''.

WELLSTONE AMENDMENT NO. 3036

Mr. WELLSTONE proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5930, 5931, and 5932.

D'AMATO AMENDMENT NO. 3037

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra; as follows:

On page 187, line 3: and on page 187, line 22, strike ''5'' and insert ''10.''

ROTH AMENDMENT NO. 3038

Mr. ROTH proposed an amendment to the bill S. 1357, supra; as follows:

On page 541, strike line 22, and all that follows through page 542, line 2, and insert:

''(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

''(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.48;

''(IV) October 1, 1997, and before October 1, 1998, 'c' is equal to 1.33; and

''(V) October 1, 1998, and before October 1, 2002, 'c' is equal to 1.23.''.

On page 548, between lines 2 and 3, insert the following new section:

SEC. 7019. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN OTHER CONDITIONS.

Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i–3(f)(2)(B)(iii)(I)) is amended, in the matter preceding item (a), by striking ''by or in a skilled nursing facility'' and inserting ''by a skilled nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)''.

On page 548, strike line 3, and all that follows through page 568, line 13, and insert the following:

Subchapter B—Payments to Skilled Nursing Facilities

PART I—PROSPECTIVE PAYMENT SYSTEM

SEC. 7025. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

''PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

''SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

''(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

''(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).''.

PART II—INTERIM PAYMENT SYSTEM

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.''.

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting ''AND CERTAIN ANCILLARY'' after ''SERVICE''.

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

''COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

''SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

''(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

''(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

''(B) Prescription drugs.

''(C) Complex medical equipment.

''(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

''(E) Radiation therapy.

''(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

''(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

''(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

''(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

''(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

''(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

''(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

''(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

''(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

''(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

''(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

''(A) the per stay amount applicable to the facility under subsection (d) for the period; and

''(B) the number of stays beginning during the period for which payment was made to the facility for such services.

''(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

''(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

''(1) AMOUNT FOR FISCAL YEAR 1996.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

''(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

''(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

''(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the greater of—

''(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

''(B) 1.2 percent (1.1 percent for fiscal years after 1997).

''(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

''(1) the sum of—

''(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

''(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

''(2) the average number of days per stay for all residents of the skilled nursing facility.

''(f) INTENSIVE NURSING OR THERAPY NEEDS.—

''(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

''(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—The Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

''(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

''(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

''(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

''(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

''(i) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.''.

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking ''1813 and 1886'' and inserting ''1813, 1886, 1888, 1888A, and 1889''.

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: ''(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).''.

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 7031, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting '', and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.''.

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking ''(c) The Secretary'' and inserting ''(c)(1) Subject to paragraph (2), the Secretary''; and

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

''(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

''(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

''(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.''.

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

''(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.''.

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(T) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking ''and (D)'' and inserting ''(D)''; and

(B) by striking the period at the end and inserting the following: '', and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.''.

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking ''or'' at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting ''; or''; and

(C) by inserting after paragraph (15) the following new paragraph:

''(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.''.

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking ''(2);'' and inserting ''(2) and section 1842(b)(6)(E);''.

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

''(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.''.

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REVISED SALARY EQUIVALENCE LIMITS.

The Secretary of Health and Human Services shall determine the non-routine per stay payment amounts for each skilled nursing facility established under section 1888A of the Social Security Act, as added by section 7032, as if salary equivalence guidelines were

in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7025) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 7038. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

On page 774, between lines 2 and 3, insert the following:

''(g) SOLVENCY STANDARDS.—A medicaid plan shall provide that any State law solvency requirements that apply to private sector health plans and providers shall apply to the State medicaid plan and providers under such plan.

Beginning on page 775, strike line 14 and all that follows through page 776, line 10, and insert the following:

''(1) SET-ASIDES.—Subject to subsection (e)—

''(A) GENERAL SET-ASIDE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

''(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The medicaid plan shall provide priority for making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

''(2) MINIMUM PERCENTAGES.—

''(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 (not including expenditures for such fiscal year taken into account under subparagraph (B)) which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

''(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

''(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

''(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

''(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'targeted low-income elderly individual' means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

On page 813, strike lines 4 through 10, and insert the following:

''(A) fiscal year 1996 is $97,245,440,000;
''(B) fiscal year 1997 is $102,607,730,702;
''(C) fiscal year 1998 is $106,712,039,930;
''(D) fiscal year 1999 is $110,980,521,527;
''(E) fiscal year 2000 is $115,419,742,389;
''(F) fiscal year 2001 is $120,036,532,084;
''(G) fiscal year 2002 is $124,837,993,367;

On page 814, strike lines 9 through 24, and insert the following:

fiscal year 1996, subject to paragraph (4), is 109 percent of—

''(i) the greatest of—

''(I) the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1995,

''(II) 103.379859 percent of the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994, or

''(III) 95 percent of the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1993; multiplied by

''(ii) the scalar factor described in subparagraph (D).

Beginning on page 815, line 10, strike all through page 816, line 13 and insert the following:

''(D) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is the ratio of $89,216,000,000 to the total amount of Federal expenditures (minus the amount paid under section 1923) made to all States and the District of Columbia for the 4 quarters in fiscal year 1995.

Beginning on page 818, line 12, strike all through page 819, line 8, and insert the following:

''(A) FLOOR.—

''(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

''(I) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

''(II) .24 percent of the pool amount for such fiscal year; or

''(III) in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.9 percent of such State's or District's outlay allotment for 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the preceding fiscal year.

''(ii) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

''(I) For fiscal year 1999, 104.25 percent.

''(II) For fiscal years 2000 and 2001, 104 percent.

''(III) For fiscal year 2002, 103.4 percent.

''(B) CEILING.—

''(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

''(I) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

''(II) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved.

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage is—

''(I) for fiscal year 1997, 125.5 percent;
''(II) for fiscal year 1998, 132 percent;
''(III) for fiscal year 1999, 151 percent;
''(IV) for fiscal year 2000, 156 percent;
''(V) for fiscal year 2001, 144 percent.
''(VI) for fiscal year 2002, 146 percent.

On page 833, line 21, after ''section 2121'' insert '', plus any additional amount available to such State under subsection (g) or (h),''.

On page 858, before line 19, insert the following new subsection:

''(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

''(1) CARRYOVER OF ALLOTMENT PERMITTED.—

''(A) IN GENERAL.—If the amount of the payment to a State under this section for a fiscal year does not exceed—

''(i) the amount of the allotment provided to such State under section 2121 for such fiscal year, plus

''(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2)) resulting from the application of this subparagraph in the preceding fiscal year,

then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

''(B) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference described in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 to a State may not exceed the total amount for the 2 immediately preceding fiscal years of the difference in each such fiscal year between the payment to a State under this section and the amount of the allotment provided under section 2121.

''(2) EXCESS AMOUNTS REALLOCATED.—

''(A) IN GENERAL.—The sum of the amounts in excess of the maximum carryover amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and

the District of Columbia shall be available for payment in such fiscal year to qualified States on a quarterly basis as otherwise determined under this section.

''(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

''(i) with a State outlay allotment under section 2121 which is—

''(I) subject to the ceiling determined under section 2121(c)(3)(B) for the fiscal year,

''(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

''(III) subject to such floor;

''(ii) which has no amount of difference as determined under paragraph (1) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year; and

''(iii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

''(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments applied for by all qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate such payments among groups of qualified States in the following order:

''(i) All qualified States described in subparagraph (B)(i)(I).

''(ii) All qualified States described in subparagraph (B)(i)(II).

''(iii) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

''(h) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

''(1) APPROPRIATION.—There is hereby authorized to be appropriated and there are appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

''(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

''(A) For Arizona, $63,000,000.

''(B) For Florida, $250,000,000.

''(C) For Georgia, $34,000,000.

''(D) For Kentucky, $76,500,000.

''(E) For South Carolina, $181,000,000.

''(F) For Washington, $250,000,000.

''(G) For Vermont, $50,000,000.

On page 858, line 19, strike ''(g)'' and insert ''(i)''.

At the end of Subtitle B of Title VII insert:

SEC. 7196: ADJUSTMENT OF POOL AMOUNTS

Notwithstanding any other provisions in law, the Secretary shall adjust Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 for each state by a proportionate amount such that total Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 shall not exceed the amounts provided in section 2121(b)(1) of Social Security Act as added by section 7191(a) of this Act,

a. reduced by $1,900,000,000 in FY 1996, and increased by a similar amount in the subsequent fiscal year; and

2b. reduced by $2,300,000,000 in FY 2000, and increased by a similar amount in the subsequent fiscal year.

Beginning on page 889, line 20, strike all through page 897, line 19, and insert the following: collected shall be paid to such individual.

''(c) EFFECTIVE DATE+—Notwithstanding any other provision of law, subsection (b) shall be effective on and after January 1, 1996.

''SEC. 2137. REQUIREMENTS FOR NURSING FACILITIES.

''(a) REQUIREMENTS FOR NURSING FACILITIES.—

''(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day after the date of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

''(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

''(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

''(i) are equivalent to or stricter than the requirements imposed under paragraph (1); and

''(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect,

may apply to the Secretary for a waiver of the requirements imposed under paragraph (1).

''(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under subparagraph (A) not later than 120 days after the date the application is submitted.

''(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

''(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

''(i) the penalty described in subsection (b);

''(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

''(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

''(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 2 percent of the State outlay allotment under section 2121(c) for such fiscal year if the Secretary makes a determination that a State medicaid plan has failed to comply with a provision of section 1919, as so in effect, or any State law requirements applicable to such plan under a waiver granted under subsection (a)(2)(A).

On page 980, between lines 2 and 3, insert the following new sections:

SEC. 7196. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(iii) (42 U.S.C. 1396r(e)(7)(B)(iii)) is amended to read as follows:

''(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: ''In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.''.

(2) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking ''ANNUAL''.

(3) The heading for section 1919(e)(7)(D)(i) (42 U.S.C. 1396r(e)(7)(D)(i)) is amended by striking ''ANNUAL''.

SEC. 7197. NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking ''by or in a nursing facility'' and inserting ''by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)''.

SEC. 7198. MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicaid program under title XXI of such Act (in this section referred to as the ''medicare and medicaid programs'') for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 10 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries

who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and medicaid programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the day before the date of the enactment of this Act), of any items and services provided to chronically-ill elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section.

(g) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicaid and medicare programs as a result of the demonstration project.

On page 1394, after line 19, insert the following:

SEC. 7482. COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEAR 1996.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average for all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

Beginning on page 786, strike line 9 and all that follows through page 788, line 6.

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

• Mr. SANTORUM. Mr. President, on January 31, 1995, I introduced my first bill as a U.S. Senator, S. 3004, the Commercial Aviation Fuel Tax Repeal Act. We are now on the verge of passing a budget which, for the first time in 26 years, will balance the Federal budget and eliminate the Federal deficit. I am proud to note that S. 304 has been incorporated to a great extent into this historic budget. As a result, I wish to take this time to mention the thousands of workers and the many unions and business professionals who have provided consistent support for this crucial piece of legislation.

First, I wish to submit for the record a resolution as passed by the National Aerospace Workforce Coalition. Throughout the debate on the aviation fuel tax issue, I worked closely with the National Aerospace Workforce Coalition. This organization consists of local unions and workforce associations. The coalition represents some 42 different unions in 29 States. Many of my colleagues have received letters and phone calls from coalition members in their States. The coalition believes, as I do, that a commercial aviation fuel tax will be extremely harmful to America's manufacturing base.

The resolution which I have submitted goes to the heart of the relationship between a tax on jet fuel and commercial aircraft orders, namely, that every increase in taxes on commercial jet fuel will be followed by more cancellations and deferred orders of American made engines and aircraft.

The labor unions supporting the repeal of this fuel tax include the spectrum of America's aerospace industrial base. This resolution has been passed by unions representing scientists and engineers, production workers, as well as unions engaged in casting and fabricating the specialized metals used in the production of modern aircraft.

Further, I wish to note that the International Association of Machinist and Aerospace Workers, District Lodge 141 passed a similarly worded resolution on October 24, 1995. This union represents 34,000 members at 13 airlines, and their delegates unanimously passed this resolution at their annual convention.

The balanced budget which the Senate will pass shortly relieves the airline industry from any unfair tax, but only for a limited time. Currently, the House of Representatives has extended the aviation fuel tax exemption for 2 years and the Senate shall extend it for only 17 months. I am pleased that in these difficult budgetary times both Chambers have recognized not only the unfairness of this unprecedented tax, but the critical need to avoid further hindering a struggling industry. However, absent outright repeal, I strongly believe that any extension of the exemption must run for at least 2 years. I will work hard during the House-Senate conference on the budget to ensure that the extension extends for at least this long. Further, it is critical for the Congress to address broader taxation and fee issues with respect to the airline industry during the next session of the 104th Congress. I will work to hold hearings on this issue in the spring of 1996.

The reasons for at least a 2-year extension are clear. U.S. airlines have lost money every year since 1990, with losses for the period totaling almost $13 billion. Almost one-half of all major U.S. airlines have filed for chapter 11 bankruptcy protection during the crisis, including America West, Continental, twice, TWA, twice, Eastern, Pan Am, and Midway. The last three have ceased operations altogether. Cumulative industry debt since 1990 has increased from $9 billion to $46 billion, and the bonds of all major U.S. airlines are rated as junk bonds. Airlines are facing Government-mandated fleet replacement costs to upgrade fleets to quiet technology aircraft that will exceed $15 billion a year through the rest of the decade. Imposing a fuel tax now, at a cost of $527 million a year, would wreak havoc on an industry struggling to survive.

In addition, the airline industry has historically paid excise and cargo fees in lieu of any fuel tax. These fees will exceed $6.9 billion in 1995. Imposing a fuel tax absent any broader effort at reassessing these other taxes would be both unprecedented and unfair.

Hence, for both fiscal and fairness reasons, an extension of the aviation fuel tax exemption is greatly needed. While we in the Senate have taken steps in the right direction by incorporating S. 304, in part, into this year's budget act, we must continue to ensure that the airline industry is taxed fairly. This industry is one of our Nation's last great manufacturing gains, and its tens of thousands of workers deserve the right to continue to uphold America's predominance in this critical industry.

I ask that the National Aerospace Workforce Coalition resolution referred to earlier be printed in the RECORD.

The resolution follows:

AVIATION FUEL TAX RESOLUTION

Whereas our country's airline industry has suffered enormous losses over the last five years, reducing airline employment by more than 120,000 workers and forcing remaining workers to accept reductions in wages and benefits;

Whereas several years ago government mandates required the airline companies to pay excise taxes and fees in lieu of a fuel tax, which today collectively amounts to more than 52 cents per gallon of fuel and places our nation's airline companies at a competitive disadvantage;

Whereas there is a direct relationship between a healthy airline industry and a healthy aerospace industry, and that only profitable airlines can modernize their fleets with American-built engines and aircraft to help revive an aerospace industry already devastated by drastic cuts in defense;