

The PRESIDING OFFICER. The Senator from Kentucky.

#### PRINCIPLES FOR TAX LEGISLATION

Mr. FORD. Mr. President, when we start debating tax legislation on the floor, I hope our debate will be governed by a few basic principles. Let me state those questions which are most important to me personally. Each of these questions needs a satisfactory answer.

Are the tax benefits spread evenly across all income levels?

Is the tax legislation consistent with the budget agreement?

Does the tax package undermine a balanced budget after 10 years?

We need answers which meet basic standards of fairness and sound public policy. These are the standards I think we should use to judge any tax bill that comes to this floor.

Today, I would like to talk a little more about the first concern I have mentioned how evenly the benefits of the proposed tax bills will fall across income levels.

A distribution table put out by the Senate Finance Committee claims that 74 percent of the tax benefits in the proposal pending before that Committee go to those making under \$75,000; 74 percent. That sounds pretty good.

On the other hand, our analysis shows that 43 percent of the benefits go to the wealthiest 10 percent, and two-thirds of the benefits go to the top 20 percent.

How can the two analysis be so different? Well, let's look at some of the differences.

First, the Republican claims about who gets the tax cuts are based only on 5-year projections—before many of the backloaded tax breaks are fully implemented. Our analysis looks at the tax cuts when fully implemented. Let me repeat that. They cut their analysis off after 5 years, before many of the tax breaks are fully implemented. You can play a lot of games by cutting off the analysis after 5 years. What happens after 10 years? Under the Republican income distribution, they will never tell you. But why not?

Our income distribution looks at these new tax breaks when they are fully implemented. What a difference it makes. Apparently the most backloaded tax breaks provide very little benefit for low and middle income workers.

Second, because the Republican claims are only based on 5 years, they treat capital gains cut as hardly any tax cuts at all. In fact, the Republican analysis of the House tax package claims that the capital gains tax cut is actually a tax increase for upper income taxpayers during the first 5 years. Imagine that—a capital gains cut that counts as a tax increase.

Third, the Republican claims about who gets the tax cuts ignore the impact that estate tax cuts will have in

individual taxpayers. It simply ignores them. They don't count estate tax benefits at all.

The Republican claims about who gets the tax cuts ignore the fact that many of the proposed tax cuts are backloaded—meaning that the full impact is not felt until well after the first 5 years, and in some cases not until well after 10 years. This means they have essentially ignored not only the impact of capital gains cuts, but also the backloaded IRA's, and the phase-in of estates taxes.

Mr. President, the Center on Budget and Policy Priorities has produced a more detailed analysis of the distribution tables prepared by the Joint Committee on Taxation on the House tax bill. That analysis contains essentially the same flaws as the Senate analysis. I ask unanimous consent that this document, entitled "Joint Tax Committee Distribution Tables Produce Misleading Results," be printed in the RECORD.

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

CENTER ON BUDGET AND POLICY PRIORITIES—  
JOINT TAX COMMITTEE DISTRIBUTION TABLES PRODUCE MISLEADING RESULTS  
TABLES FAIL TO ACCOUNT FOR ANY OF THE BENEFITS FROM THE TAX CUTS WORTH THE MOST TO HIGH-INCOME TAXPAYERS

According to distribution tables the Joint Committee on Taxation has prepared the tax cuts proposed by Rep. Bill Archer, chairman of the House Ways and Means Committee, would concentrate their benefits among middle-class Americans. This finding is sharply at odds with the content of the legislation. Four of the largest tax cuts—the capital gains, Individual Retirement Account, estate, and corporate alternative minimum tax provisions—provide the large majority of their benefits to households with high incomes.

The Joint Committee's handling of these four provisions is fundamentally flawed. In effect, its distribution tables do not reflect any of the benefits that taxpayers would receive from the four provisions.

The Joint Tax Committee distribution tables ignore the effects of reductions in estate and corporate taxes. The Joint Committee did not examine the distributional effects of these tax changes.

The Joint Tax Committee distribution tables do consider the effects of the changes in the capital gains tax and the IRA provisions. The distribution tables, however, go only through 2002. Because the capital gains tax cuts and the IRA provisions are heavily backloaded, they do not result in net reductions in revenue collections during the time period the Joint Tax Committee examined. (For example, taxpayers would not begin to receive tax cuts from capital gains indexing until 2004). And because they do not result in net revenue reductions, the Joint Tax Committee assumes these provisions produce no net tax cut benefits in these years.

In fact, the Joint Tax Committee estimates that during the period through 2002, net capital gains tax payments would rise \$1 billion due to the Archer capital gains tax provisions. In its distributions tables, the Joint Tax Committee treats this \$1 billion as a tax increase, primarily on taxpayers at high income levels. As a result, under the Joint Tax Committee tables, high-income taxpayers appear to be the victims of a tax increase imposed by the Archer capital gains tax cuts.

By considering a time period in which the capital gains provisions cause a short-term increase in revenue collections and the IRA provisions result in no significant net change in revenue collections (the IRA provisions lose only \$33 million cumulatively in the years through 2002), the Joint Tax Committee's distribution tables dramatically understate the benefits of the tax package to high-income taxpayers.

While the capital gains and IRA proposals produce no net revenue loss in the years through 2002, the combined revenue loss from these provisions is \$51 billion from 2003 through 2007, years the Joint Tax Committee distribution tables do *not* examine. The large cost of these provisions during this second five-year period stands in sharp contrast to the \$1 billion net gain in revenue from the capital gains and IRA provisions from 1998 to 2002, years the Committee's distribution tables do examine.

By 2007, the combined cost of the capital gains and IRA provisions exceeds \$15 billion a year and is growing at a rate of nearly \$3 billion a year.

If the Joint Tax Committee had examined the capital gains and estate tax provisions when they were fully in effect—and if it also had distributed the effects of the reductions in the estate and corporate alternative minimum taxes—the degree to which the tax benefits of the Archer plan accrue to high-income taxpayers would be shown to be vastly larger than the Joint Committee on Taxation tables indicate.

Like the capital gains and IRA tax cuts, the estate tax provisions of the Archer plan are heavily backloaded. (The corporate alternative minimum tax provisions are the only provisions principally benefitting high-income taxpayers that are not heavily backloaded.)

As a consequence of the backloading, the four upper-income tax cut provisions account for a growing proportion of the tax package over time. Specifically, in 2003, the capital gains, IRA, estate and corporate alternative minimum tax provisions account for 30 percent of the gross cost of the tax package. By 2005, they account for 35 percent of the gross tax cuts in the tax package. By 2007, the figure is 42 percent. By about 2010, the upper-income provisions, which concentrate the bulk of their benefits among a small fraction of the population, would account for a majority of the gross tax cuts in the package.

Furthermore, these percentage figures do not reflect several other major tax cuts in the package that would confer a sizable share of their tax cut benefits on high-income taxpayers—such as the provision weakening the individual alternative minimum tax and the \$10,000-a-year education tax deduction, which includes no income limit on the taxpayers who can claim it. Eventually, the Archer plan becomes a piece of legislation whose predominant effect is to provide upper-income tax relief and enlarge the after-tax incomes of those in the wealthiest strata of society.

#### CHANGES IN JOINT TAX COMMITTEE METHODOLOGY SKEW THE DISTRIBUTION TABLES

Also of significance, the methodology the Joint Tax Committee has used in preparing the distribution tables on the Archer plan differs in important ways from the methodology the Joint Committee employed until late 1994.

Tax bills have been introduced on numerous previous occasions that phase in the tax cuts they contain. Accordingly, the Joint Tax Committee had to address on many prior occasions the question of how to estimate the distributional effects of tax provisions whose full effects would not be felt for more

than five years. Until the end of the 103rd Congress, the Joint Tax Committee traditionally addressed this issue by examining the distributional effects of the proposed tax changes when the changes were fully in effect. This also is the approach most tax analysts endorse and the approach the Treasury Department continues to use. But the Joint Tax Committee did not use this approach in analyzing the distributional effects of the Archer tax package. It thereby has significantly understated the effects of the backloaded tax cuts in the Archer plan that primarily benefit high-income taxpayers.

The Joint Tax Committee also has changed its methodology in another key respect. The capital gains and IRA provisions of the Archer tax package are designed so they increase tax collections in the period from 1998 to 2002. This increase in collections does not reflect an increase in tax rates or a change in tax law under which previously exempt income is made subject to taxation. Rather, the increased collections reflect voluntary changes in behavior by taxpayers who choose to make tax payments in the next five years that they would have made in later years in return for very generous tax cuts for years to come.

For example, the Joint Tax Committee estimates that the Archer capital gains provisions would produce a net increase in revenues in the years through 2002. In the first two years, these provisions would raise revenues because some investors would decide to take advantage of the new, lower capital gains tax rate to sell more assets than they otherwise would have sold in those years. The increased tax collections that result from the sale of an increased volume of assets in these two years do not represent a tax increase the government has required investors to pay. To the contrary, the increase in tax collections would occur because some investors would elect to sell in the next two years some assets they otherwise would have sold at a later date. The investors would sell these assets because they concluded it was in their interest to do so.

Similarly, the capital gains indexing proposal offers investors the *option* of paying capital gains tax in 2001 and 2002 on the increase in the value of various assets they hold between the time the assets were purchased and January 1, 2001, in return for large capital gains tax cuts when they sell these assets in later years. Because this offers such a sweet deal to investors, many would use it. They would pay capital gains taxes in 2001 and 2002 that they would otherwise have paid in future years when the assets are actually sold, and they would reap large tax cut benefits as a result. Here, too, the additional revenue collections in 2001 and 2002 do not represent tax increases the government has imposed on these individuals. To the contrary, these investors are securing large tax cuts for themselves.

The Archer IRA proposals also have this characteristic. They are engineered so taxpayers can opt to pay taxes during 1999 through 2002 that they otherwise would pay in future years in return for very generous tax breaks for years to come. Here, also, taxpayers would choose to accelerate some tax payments into the next several years because it would be in their interest to do so.

Under the traditional methodology the Joint Tax Committee used in the past, these accelerated tax payments that individuals would elect to make in the next few years, in return for large future tax breaks, would *not* be treated as tax increases imposed upon these individuals. Under the new methodology it adopted in late 1994, however, the Joint Tax Committee treats these additional revenue collections as tax increases. As a result, the Joint Tax Committee's distribution

tables reflect the incongruous assumption that the net effect of the Archer capital gains and IRA proposals on wealthy individuals is to saddle them with a tax increase.

#### LEADING ANALYSTS REJECT NEW JOINT TAX METHODOLOGY ON THE DISTRIBUTION OF CAPITAL GAINS TAX BENEFITS

Many of the leading analysts in the field reject the new Joint Tax Committee method as producing severe distortions in the distribution of the benefits that a capital gains tax cut produces. Among those rejecting the new Joint Tax Committee approach are: Robert Reischauer, former director of the Congressional Budget Office; Henry Aaron, senior fellow at the Brookings Institution; and Jane Gravelle, the Congressional Research Service's leading tax expert and analyst. In addition, several years ago Gravelle co-authored an article on this matter with Lawrence Lindsey, a noted conservative economist who served until recently on the Federal Reserve Board and who supports a capital gains tax cut. In their article, Lindsey and Gravelle explicitly rejected the methodology the Joint Tax Committee has now adopted.

As Aaron has observed, investors who respond to a capital gains tax cut by selling more assets are people who face one set of opportunities under the current capital gains tax rates—and find it financially advantageous not to make additional asset sales—but face a more generous set of opportunities when capital gains tax rates are reduced and choose to follow a different course. "Since they have the option of doing what they did before (i.e., not selling additional assets), but the new, more favorable tax rates induce them to do something else, they must be better off," Aaron explains. "It is logically absurd to count them as worse off in any way whatsoever."

Aaron's view is supported by an article Gravelle and Lindsey co-authored in 1988 before Lindsey joined the Fed. In the article they stated:

"\* \* \* suppose a reduction in the capital gains tax rate led to substantially more capital gains realizations [i.e., more sales of assets] and actually increased the tax revenue paid by upper-income groups. \* \* \* it would be totally inappropriate to say that their tax burden had increased. After all, with a lower tax rate, these upper-income taxpayers are less burdened than they were before, even though they pay more taxes."<sup>1</sup>

In addition, in a more recent analysis examining the new Joint Tax Committee methodology, Gravelle notes that the standard methodology, if anything, understates the benefits that investors would secure from a capital gains tax cut because it does not reflect the tax benefits they would receive when they voluntarily sell more assets to take advantage of a lower capital gains tax rate. She also observes that economists generally would reject the new methodology.

Mr. FORD. Mr. President, let's not cook the books. Let's have a straightforward debate about who is getting the tax breaks that have been proposed, and whether we can do better. We hear a lot about income tax, but what about payroll tax?

Let's not ignore payroll taxes when we talk about who is carrying the tax burden today. Workers in this country

pay a 7.65-percent payroll tax to finance the Social Security Program. They pay an additional 1.45 percent payroll tax to finance the Medicare Program. Social Security taxes are collected on the first dollar earned—up to \$62,700. Medicare taxes are collected on all earned income.

The majority of workers in this country pay more in payroll taxes than they do in income taxes. So it is insulting for many of these workers to hear some around here talk about low income workers as if they pay no taxes. You will actually hear some Members come to this floor and argue that lower income workers do not get much of a tax break because they do not pay many taxes. They will say lower income workers do not get a full \$500 per child tax credit because they do not pay enough in taxes.

This is just not true. A tax is a tax for most folks—whether they are income taxes or payroll taxes or estate taxes or something else. But by counting only income taxes and ignoring payroll taxes, it means that upper income taxpayers get more of the tax breaks, while lower and middle income workers get less.

So we have to do better.

Now, we will also hear that the top 10 or 20 percent get most of the tax benefit because they generate most of the income. Well, let's put that in perspective as well. According to the Congressional Budget Office, in 1994 the wealthiest 20 percent of families made about 48.1 percent of family income in this country. Yet under the Senate Finance Committee bill, they get 67 percent of the tax breaks.

Or let me put it another way—from a middle class perspective. Again according to CBO, in 1994 the bottom 60 percent of families made 27.3 percent of the income. Yet under the Senate Finance Committee bill, they get only 12 percent of the tax benefit. So I think we are a little out of balance. When the bill reaches the floor, I hope we can do better. I hope we can make it a little more fair. It is the least we can do.

Last, Mr. President, when we talk about the fairness of this package, we need to talk about how the revenue raisers in the Senate Finance Committee tax package affect different income groups.

Last night, the Finance Committee voted to increase excise taxes on cigarettes by 20 cents per pack. I understand that it's politically correct to attack the tobacco industry. And we're going to see plenty of piling on over the next few months regarding tobacco.

But let's talk for a minute about how this cigarette tax affects various income groups. It's well documented that cigarette excise taxes are the most regressive of all taxes—meaning they hit poor folks a lot harder than they hit upper income folks. According to a 1997 KPMG Peat Marwick study, U.S. families earning about \$30,000 or less earned

<sup>1</sup>This quote is from Jane G. Gravelle and Lawrence B. Lindsey, "Capital Gains," Tax Notes, January 25, 1988, p. 399. Gravelle included this quote in Jane G. Gravelle, "Distributional Effects of Tax Provisions in the Contract with America as reported by the Ways and Means Committee," CRS Report for Congress, April 3, 1995.

about 16 percent of all income generated, but paid 47 percent of all tobacco taxes. Let me say it again. Families earning less than \$30,000 pay 47 percent of all cigarette excise taxes.

The changes in the tax bill made last night will make the disparity among poor families even greater.

On average, low income persons pay 15 times more in tobacco taxes than upper income individuals.

And what was this tax increase on low income people going to be used for? To accelerate the increase in estate tax relief, which goes primarily to upper income individuals. This is a reverse-Robin Hood amendment. We are taxing the poor to help the wealthy.

The amendment will also reportedly be used to provide \$8 billion in additional spending for health insurance. Just a couple of weeks ago we heard how this would violate the budget agreement. We voted 55 to 45 against an amendment that would raise taxes in order to raise spending on health insurance. Phone calls were made to the President of the United States to tell him how this would violate the budget agreement and how he better announce he was opposed to the amendment. Yet last night, some of the very same Senators who made those arguments on the floor a few weeks ago apparently voted in favor of a very similar amendment. How could it violate the budget agreement a few weeks ago and not now?

Last, Mr. President, the timing of this tax increase is most interesting. Later today we may hear an announcement of a "global settlement" of tobacco litigation. The agreement will require congressional action. As I understand it, this agreement completely fails to address the interests of tobacco farmers and factory workers, nearly all of whom are low to moderate income workers. But we will have that debate on another day.

What is interesting today, however, is the impact of that agreement on all these proposed cigarette tax increases. The tobacco settlement, if implemented, will have an immediate impact on prices, raising the price of a pack of cigarettes by somewhere in the neighborhood of a dollar. This, of course, will depress consumption—which in turn will reduce revenues by about 20 to 25 percent, or maybe even higher. So any proposals in the reconciliation bill to raise revenues by raising cigarette taxes will prove to be overly optimistic as soon as any global settlement is implemented. This means less revenue will actually be raised, and our deficit problems will be worse—particularly in the out years. So there is a great ripple effect as work here if these tax increase proposals succeed.

But last, Mr. President, let me return to my initial point. The tax package considered by the Finance Committee benefits upper income individuals too heavily. The cigarette tax adopted last night makes matters even worse, be-

cause it is primarily a tax on low income individuals. So not only do low income folks get virtually none of the tax breaks—but they will now get a tax increase.

I hope my colleagues who claim great concern for low income people will keep this in mind as they prepare to vote on the tax reconciliation bill. As for this Senator, I think a bad bill was made worse by the Finance Committee last night, and it is simply not a package I can support in its current form.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### AMERICANS DISABLED FOR ATTENDANT PROGRAMS TODAY

Mr. SPECTER. Mr. President, I have sought recognition today to discuss programs proposed by the Americans Disabled for Attendant Programs Today, a group known as ADAPT, that is working to help people who are disabled live normal lives.

There is a curious provision in the Medicaid laws, one of many curious provisions in the Medicaid laws, which does not permit people to live at home in community-based settings as opposed to being in nursing homes. I have sought to persuade the Secretary of Health and Human Services to change that program with a letter which I wrote to her on February 28, 1997, pointing out that "it has been brought to my attention that considerable savings to the Medicaid Program could be achieved by redirecting long-term care funding toward community-based attendant services, and by requiring States to develop attendant service programs meeting national standards to assure that all people with disabilities have full access to such services and can live at home."

When the Secretary came for a hearing, the question was propounded and the response has been that "HHS is currently considering such programs as a policy option but has not yet put them into effect. The Robert Wood Johnson Foundation is funding a demonstration program that will be operational next year, and the Department is looking toward the results of that program before acting."

It is my thought, Mr. President, that there is a clear-cut need for this kind of a program to be put into effect forthwith, and if the Department of Health and Human Services does not do so, then it may be necessary to enact legislation which would require the Department to act in that way. In the meantime, the appropriations subcommittee, which I chair, has increased the funding for the independent living program by some \$2.1 million for a \$74.6 million allocation this year.

I had occasion earlier this year to visit a group of people who are living at home and told them that I would display on the Senate floor their sweat shirts and send to them a video cas-

sette. Sweat shirts are very popular these days. This one says, for those who might not be able to read it on C-SPAN2: "Our Homes, Not Nursing Homes." Underneath the logo is "ADAPT," which is Americans Disabled Attendant Programs Today.

They are a very courageous group. They are principally in wheelchairs, with very, very substantial disabilities, struggling to live independent lives and doing a great job at it. What they want is the flexibility to be able to live at home and to have home services.

I think this is another area where Medicaid ought to have a little flexibility, understanding the needs of people. One way or another, Mr. President, we intend to get there and reasonably soon.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 943 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. SPECTER pertaining to the introduction of Senate Concurrent Resolution 34 are located in today's RECORD under "Submissions of Concurrent and Senate Resolutions.")

Mr. SPECTER. I thank the Chair. I note the absence of any other Senator seeking recognition and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COVERDELL. Mr. President, I ask unanimous consent in the period of morning business, the following Senators be permitted to speak for up to the following periods of time: Senator MURKOWSKI, 30 minutes, and Senator COVERDELL or his designee for up to 60 minutes from the hour of 2 o'clock to 3 o'clock.

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

#### TAX RELIEF

Mr. COVERDELL. Mr. President, we are in the midst of a great deal of history in the 105th Congress. As most people now realize early out, the Congress, the leadership of the Congress and the President of the United States and his administration reached an agreement that they would work together to produce, finally, after well over a decade, tax relief, and that we would produce by the year 2002 a balanced budget which would, of course, by definition, produce constrained spending, and that we would take steps to protect the solvency of Medicare at least for upward to a decade, and begin to reduce spending in order to reach these balanced budget goals.

By and large, I believe the American people are pleased with the concept of