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# Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear God, our motto for this day is the resolution of the psalmist: ''I delight to do Your will, O my God.''—Psalm 40:8. Lift us above the mandate of duty to the motivation of delight. May a fresh inflow of Your love fill us with the sheer delight of being alive and having the privilege of serving You. Give us a positive attitude toward our work, a profound gratitude for the opportunity to glorify You in our pursuit of excellence, and a renewed sense of the importance of the page of history You will help us write in our efforts together today.

Bless the Senators with a renewed experience of Your presence and Your power. Saturate their minds with Your wisdom, flood their hearts with enthusiasm for the crucial work of political process, and strengthen their wills with high resolve to put first Your will and what's best for our Nation.

May this be a delightful day because we took delight in You and enjoyed the uplifting encouragement of Your inspiring spirit. Through our Lord and Saviour. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator DOMENICI of New Mexico, is recognized.

## SCHEDULE

Mr. DOMENICI. For the information of all Senators, this morning the Senate will resume consideration of S. 947, the budget reconciliation bill. At 9:45 a.m, the Senate will proceed to a rollcall vote on or in relation to Senator GREGG's amendment No. 426. Whereas there are several other pending amendments that need to be disposed of, Senators can expect rollcall votes throughout Tuesday's session of the Senate.

## MEASURE PLACED ON THE CALENDAR—S. 950

Mr. DOMENICI. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 950) to provide for equal protection of the law and to prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex in Federal actions, and for other purposes.

Mr. DOMENICI. Mr. President, I object to further action at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

## BALANCED BUDGET ACT OF 1997

The PRESIDING OFFICER. The Senate will now resume consideration of S. 947, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 947) to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

The Senate resumed consideration of the bill.

Pending:

Gregg modified amendment No. 426, to provide for terms and conditions of imposing Medicare premiums.

Harkin amendment No. 428, to reduce health care fraud, waste, and abuse.

Kennedy/Wellstone amendment No. 429, to strike the provision relating to the imposition of a copayment for part B home health services.

Motion to waive a point of order that section 5611 of the bill violates section 313(b)(1)(A) of the Congressional Budget Act of 1974.

### AMENDMENT NO. 426

The PRESIDING OFFICER. There will now be 15 minutes of debate prior to a vote on or in relation to the Gregg amendment No. 426.

Mr. DOMENICI. Parliamentary inquiry. Is it not time for the proponent and opponents to share some time equally in reference to the Gregg amendment?

The PRESIDING OFFICER. That is correct. There are now 15 minutes equally divided on the Gregg amendment No. 426.

Mr. DOMENICI. I yield the floor to Senator GREGG.

Mr. GREGG. Mr. President, I am not sure who rises in opposition to this amendment. I understand there are some concerns that have been raised. Let me review the amendment so people understand what it does.

Essentially, this amendment creates a marketplace, creates competition, and it gives seniors the opportunity to go into the marketplace, be thoughtful purchasers, and the result of being thoughtful purchasers is getting an actual return, a monetary return, for being thoughtful purchasers.

What the amendment does is strike the language in the bill which says that there can be no cash incentives tied to any sort of Choice plan. Now, in the original bill as it was presented by myself, the original Choice bill, the vast majority of which has been incorporated in this bill, we had a section which said that if a senior was able to purchase a plan at less dollars, then the senior would be allowed to keep 75 percent of the savings, and 25 percent of the savings would go into the part A trust fund. Under the bill as it is presently structured, the practical effect was it created more marketplace forces. It meant seniors would be more thoughtful purchasers of health care. This is important.

Second, it meant that the health care provider groups like HMO's, PPO's and the PSO's who are now being empowered to compete for senior dollars, those groups would have a reason to deliver the same benefit structure as

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Medicare gives today at the same quality but deliver it at less cost. It is called capitalism. It is called a marketplace force. It is what we are trying to put in place to try to control the cost of health care and Medicare, and it is what is working in the private sector.

Under the bill as it is presently structured, that opportunity would be eliminated. Now, we are not suggesting that opportunity has to be pursued. We are just saying let's leave open that opportunity under HCFA's guidance, and by the way, if it was determined this might be a way to create better competition and better health care delivery, it would be available.

Now, I cannot speak for the opposition, but what I have heard from the opposition is that there is a feeling that this cash rebate may in some way affect the Treasury. Well, it does not. Under the present law as it is structured in this bill, if there is no cash rebate, the only beneficiaries of more efficiency are the provider groups. They get to keep the money. They get to keep the money. They do not rebate it to the seniors. They get to keep it, to quote Jerry McGuire.

Then I heard another comment, ''Basically what we want to do is encourage the provider groups to supply more benefits, not to supply a financial rebate to senior citizens.'' I think that makes sense. I think that should be an option. I think provider groups like PPO's that can deliver the services for less might want to throw in eyeglass care, might want to throw in prescription care. I think it is a good public policy decision to encourage that. But at the same time I bet you there are some provider groups today, because we pay so much in insurance for Medicare, who could pay the cost of eyeglass care and some percentage of prescription drug care and still be delivering that service for considerably less than what the basic premium is today that we pay in Medicare. Who is going to keep that difference? The provider groups. They will keep it in profit.

Now, I do find it ironic that people would oppose the concept that we want to open it up to competition in a way that allows the senior citizen to benefit from the cost savings, by putting some pressure on those provider groups to have to say, ''We are going to make $100 extra on this contract. Maybe we better return $50 to the senior citizen because, if we do not, our competitor down the street will make that $100 and they will return that $50 and they will get this client.''

Right now this is an issue. I understand there are some undercurrents of opposition to this. I am appreciative of that. The fact is that this is an attempt to open the marketplace to more competition and create more cost-conscious purchasers and buyers, and as a result I think it is a good approach. It does not demand that that occur. It does not even allow that to occur in the first instance. It simply makes that additional avenue of competition available by giving HCFA the authority to do it rather than banning HCFA from having the authority to do it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey controls 7½ minutes.

Mr. LAUTENBERG. Mr. President, I will yield myself such time as needed to respond with my opposition to the amendment of the Senator from New Hampshire and rise in support of the provision in the reconciliation package that was developed by Senator ROTH and Senator MOYNIHAN and other members of the Finance Committee.

Mr. President, the reconciliation bill establishes a new program known as Medicare Choice, which will give Medicare beneficiaries more options for the type of health care that they will receive in the program. Seniors will be able to choose from HMO's, PPO's, and medical savings accounts, among several other options. The committee's proposal is intended to increase Choice for seniors. At the same time, it is meant to avoid the risk that the Medicare Program would move toward a two-tiered or multitiered system in which some seniors, especially the healthier and wealthier, enjoy benefits not available to the others.

Under the committee-reported bill, providers of different services are paid a set amount. They then can compete for the consumers based on the quality and types of benefits they provide. If, for example, one HMO can operate more efficiently, it can plow the resulting savings into providing services that other less-efficient HMO's could not. This type of system is intended to ensure that seniors get the best quality care for each Federal dollar that gets spent. I think that makes sense.

The Finance Committee also wanted to avoid a situation in which providers limit their benefit package to attract those who are healthy and who therefore could take advantage of a cheaper plan that offers fewer benefits. This could ultimately lead to a Medicare system that segregates the healthy from the ill and that forces sicker people to pay more to get the health care they need.

Mr. President, I am going to stick with the Finance Committee's proposal on this. Let's give seniors more choice but let's make sure that the choices offer the type of quality health care they need and deserve.

When I think of plans that may offer premiums—maybe they offer theater tickets or baseball games or what have you—to seduce or induce people to go their way, I think that is a terrible idea. It can provide a large provider with a monopoly of opportunities. ''Spend your money now, you will get it back.'' You will have these people locked into your service, so spend it up front. It is a calculated marketing cost. Frankly, I hate to see our senior citizens get caught up in a scheme like that.

Mr. President, I hope we will be able to muster the support that is required here for the Finance Committee. Once again, this is now a new proposal. It alters the bill as originally developed. I do not think we ought to be doing it at this time.

I reserve the remainder of my time.

Mr. GREGG. I appreciate the comments of the Senator from New Jersey, but they are inaccurate. This does not create a two-tier system.

Under the law, the basic benefits package of the Medicare system has to be supplied by all providers. Therefore, any provider that comes forward and produces a less costly system is going to be producing a system that still meets the basic benefits package of the Medicare system. The added benefits might be eyeglasses or prescription drugs, but those are benefits which are not presently covered by Medicare anyway. So there is no opportunity for a two-tiered system.

What the Senator from New Jersey said that was accurate is that efficient suppliers of health care will end up creating a savings. What I am pointing out is that savings then flows to the supplier of the health care, the HMO or the PPO. You are basically underwriting the big health care companies at the disadvantage of seniors because seniors get none of that savings unless there is a benefit added that they may not want. They may not want eyeglasses. They may not want prescription drugs. They may have that under another system. Why not make this option available?

However, I have been asked by the chairman of the committee to withdraw the amendment at this time. I have great respect for the chairman of the committee and will acquiesce to his request. I understand his concern. I believe this is bad policy as it is presently structured. It is not in the House bill, and I hope it will be straightened out in Congress because I think we ought to give seniors this chance.

I ask unanimous consent to vitiate the yeas and nays and withdraw the amendment.

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

The amendment (No. 426) was withdrawn.

Mr. NICKLES. Mr. President, I will be brief. I want to compliment my colleague from New Hampshire for offering this amendment.

He mentioned this prohibition is not in the House bill. I hope to have something to do with the conference. I think he has brought out a very good point. We should allow some of these savings to go to the participants. So I appreciate his examination of the bill. That fact proves he has done his homework. I, for one, think he has pointed out a good option that we should allow to be available. I appreciate my colleague's attention in this matter. I will be happy to work with him to see if we can't come up with a good provision in conference.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I, too, want to join the distinguished Senator from Oklahoma in thanking our friend from New Hampshire and withdrawing the amendment. I think he has articulated the reason for the change. I think there is considerable merit to the idea, but I do appreciate the fact that he has withdrawn the amendment. I don't think it is appropriate at this time. We look forward to working with him.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I, too, want to join in saying to the distinguished Senator from New Hampshire that I saw this as a Choice proposal, an expansion of Choice. It wasn't a mandate. I thought it was a pretty good thing that we keep as much choice and potential for choice in the Medicare reform. I am sure this will be revisited at some point.

As the manager for the majority, I would like to talk a little bit with the Senate about where we are. Could I inquire, none of the amendments are automatically up at this point, are they? Am I mistaken on that? Aren't they subject to a management decision on which ones come next?

The PRESIDING OFFICER. The question would recur on No. 429, the Kennedy-Wellstone amendment to S. 947.

Mr. DOMENICI. I thank the Chair. Might I then enquire, under the ordinary rules of amendments, how much time is left on the Kennedy-Wellstone amendment, if it were all to be used?

The PRESIDING OFFICER. The Chair will check on that.

Mr. DOMENICI. That is fine. Is there any reason we should not go to the Kennedy-Wellstone amendment? I am sure Senator ROTH has a substantial amount of time on the amendment. I want to yield the entire time in opposition to the amendment to the distinguished chairman of the Finance Committee. I may need a few minutes later. I will yield the Senator the time that is left. Can the Senator manage that?

Mr. ROTH. Yes, I can manage that.

The PRESIDING OFFICER. To answer the question of the Senator from New Mexico as to the time remaining on the Kennedy-Wellstone amendment, Senator KENNEDY has 15 minutes and the Senator from New Mexico has 45 minutes.

Mr. DOMENICI. I will yield the 45 minutes to Senator ROTH.

Let me indicate to the Senate, so there won't be any misunderstanding, that what I am trying to do is get time used up or get time agreements. We don't intend to vote on the Kennedy-Wellstone amendment until early in the afternoon. So we can finish the debate and go to another one. I wanted to indicate that to the Senate at this point.

Mr. LAUTENBERG. Mr. President, if I might just add a note here for all of our colleagues who are interested in amendments, or talking on the bill. Time is flying and we will be finished at about 7:30 tonight, I think it is, with no more time left. And then should any amendments be offered, they will be offered without debate or discussion and just voted upon.

So I say to all of our colleagues within earshot, or through the staff, if you have amendments, you better get them here because pretty soon the time will have expired and you won't have an opportunity to do so.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 45 minutes.

AMENDMENT NO. 429

Mr. ROTH. Mr. President, the Kennedy amendment would strike the $5 coinsurance payment, and I think that would be a mistake. Let me start out by pointing out that home health care has exploded in cost over the recent years. It has been a serious problem that this particular aspect of Medicare has become extraordinarily expensive.

As I said yesterday, according to the Prospective Payment Assessment Commission, which is commonly called PROPAC, Medicare spending on home health services was only 1 percent of Medicare spending in 1968. By 1996, Medicare spending on home health care had increased to 14 percent of Medicare part A spending. In other words, it had gone from 1 percent to 14 percent. This is an increase that cannot be permitted in a program that is in financial difficulty.

As we all know, Medicare is an extraordinarily successful program in providing health care to senior citizens. But we do face a serious problem with respect both to part A and part B if we do not bring the cost of these programs under control. As is well understood, part A will be in bankruptcy by 2001. If we don't correct it, it will be in debt to the tune of one-half trillion dollars by 2007. And we face the same kind of serious problems with part B. Part B—it is predicted—will increase in cost roughly 8 percent a year in the coming year. So we have to bring these costs under control, and that is what we are seeking to do.

As I said, home health care has exploded in cost. Just let me point out what has happened to the cost of this part of the program in the last several years. From 1989 to 1990, the cost went up 53 percent—in 1 year, the cost of home health care went up 53 percent. The pattern has been a little better since then. In 1990–91, it went up 44 percent; in 1991–92, 40 percent; in 1992–93, 30 percent; in 1993–94, it went up 30 percent; and in 1994–95, it went up 19 percent.

Now, the reason home health care has exploded is because there are no adequate controls. For example, there has been a major increase in the number of beneficiaries using home health care. There has been an increase in the number of visits per beneficiary. I must also say that there has been a tremendous increase in the number of agencies providing home health care, and the Medicare payment system does not control the utilization of home care.

So that is the nub of the problem. There is no reason for the beneficiaries to be concerned as to how they utilize this program because there are no copayments in the part B program, as there are in others. Let me point out that the cost growth of home care, due to the increase in visits per beneficiary, has indeed been very substantial. In 1983, 45 Medicare enrollees—let me put it this way. There were 45 Medicare enrollees per thousand that used this program, an average annual of 28 visits. This was in 1983. In 1995, the number of Medicare enrollees per thousand jumped to 97—that is, from 45 to 97—and they used this program for an annual of 70 visits. That is 70 visits as compared with 28 visits in 1983.

So the question is, Why has the utilization of Medicare's home health benefit grown so rapidly? Essentially, there are two factors explaining the growth. First, the home health benefits for Medicare beneficiaries, for all practical purposes, have been unlimited since 1980. Prior to 1980, home health benefits were limited to 100 visits per beneficiary per year following a hospitalization. But in 1989, as a result of an agreement reached in a class action suit, Dougan versus Bowen, virtually all regulatory limitations on coverage were eliminated. And even today, based on Dougan, a beneficiary only needs to be homebound and under the supervision of a physician in order to receive home health care.

Now, the cost growth in home care is partly due to the Medicare cost-based payment system. Medicare pays home care companies the cost of each home care visit up to a per visit cost limit. Medicare does not limit the total number of home care visits. And the cost results are predictable. There is a great incentive for agencies to get into the business. That is one of the reasons we see the explosion of the number of agencies now in the home health care business.

Medicare payments per visit are estimated to have increased by 1.6 percent from 1993 and 1994, and the total number of Medicaid certified home health care agencies grew in 1991–95 by 52 percent from 5,949 agencies in 1991 to a total of 9,040 in 1995.

So, Mr. President, this is the reason it was felt necessary that there be a copayment on the part of the beneficiary so that there is more prudent use of this care than has taken place in recent years.

Beginning in 1998, financing for the home health benefits will begin to be transferred from the part A to the part B trust fund. This will establish 100 visits—after the hospital stay—for home health benefits under part A with all other visits considered part of a new part B home health benefit. Consistent with Medicare's treatment of other part B services, the mark establishes cost-sharing for part B home health service at $5 per visit billable on a monthly basis, and capped at an amount equal to the annual hospital deductible.

I point out to my colleagues that creating this copayment is consistent with the way we handle part B. As a general rule, there is copayment of roughly 20 percent for services under part B. Five dollars per visit is substantially less than 20 percent. But it means that as beneficiaries utilize home health care they are going to be more careful in its utilization.

Beneficiaries, I point out with respect to those who are under 100 percent of Federal poverty, will not have to pay this $5 copayment fee. They will not have to pay this copayment fee because it will be covered by Medicaid. Our Medicaid Program has been structured to protect the poor and impoverished. And under that program he or she who is under 100 percent of Federal poverty will be covered by Medicaid. So there will be no payment of the $5 fee by those who are impoverished under Federal standards.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent for unlimited floor privileges for the duration of S. 947 for the following members of the Senate Finance Committee staff:

Julie James, Gioia Bonmartini, Dennis Smith, Deloris Spitznagel, and Alexander Vachon.

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

Mr. ROTH. Mr. President, as I said, the purpose of the $5 copayment fee is to bring some balance into this program.

I obviously cannot support the Kennedy amendment. I do not believe that the home health care copayment is a barrier to care nor that it is unreasonable.

As I have already pointed out, from 1988 to 1996, spending on home health care grew an average of 37 percent per year. That is a growth that cannot be sustained if we are going to maintain Medicare as a program not only for those on it now but for the future. Medicare is going bankrupt. And this rate of growth is without question unsustainable. I cannot say too loud nor too clear that we need to assure that Medicare is preserved and protected. It is our responsibility to make certain that costs do not run out of control.

Under current law, all Medicare benefits, except for home health and laboratory services, are subject to some form of beneficiary cost-sharing. Let me reemphasize that. Under current law, all Medicare benefits, except home health and laboratory services, are subject to some form of beneficiary cost-sharing.

The $5 home health copay will have beneficiary share—in some degree, financial responsibility for services with the program. Five dollars is not an unreasonable amount to ask beneficiaries to pay for a visit.

The Prospective Payment Assessment Commission, which advises Congress on Medicare policy, supports—I underscore the word ''supports''—a modest beneficiary copay subject to an annual limit. That is exactly what this bill proposes to do.

I also point out that a report recently issued by the Commonwealth Fund supports the idea of a $5 copay. The report claims there is a sensible approach—a sensible approach which would make beneficiaries sensitive to use but not form a barrier to care. That is exactly what we want. We want this program to be used on a prudent basis; a sensible basis. But, of course, we do not want it to be a barrier to those who need this form of care.

As I have already indicated, those who cannot afford the $5 copay, those who are under 100 percent of Federal poverty, will be covered by Medicaid. They will not have to pay the $5 copay. Medicaid will pay it.

So they are protected. Beneficiaries will not have to pay any copay for the first 100 home health cares after a hospital stay. Only those visits in excess of 100, or that do not follow a hospitalization, will have a copay. And the amount is limited every year to the hospital deductible, which is what beneficiaries who have home health after a hospital stay would have to pay the hospital.

Mr. President, this is a modest proposal where according to the Congressional Budget Office only about one-third of home health users—that is about 1.2 million beneficiaries—are likely to be subject to more than $100 in copays in a year. And only about 11 percent of home health users—that is roughly 380,000 beneficiaries—are likely to reach the annual cap.

The copay for home health is not an untested idea. Until 1972, Medicare required a 20-percent copay for all part B home health visits. During health care reform, President Clinton's Health Security Act included a 20-percent copay on home health care.

So the proposal that we have in the legislation before us is far more modest.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I understand we have 15 minutes. Is that correct?

The PRESIDING OFFICER. Fourteen minutes.

Mr. KENNEDY. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think there are some important points to make in response to the presentation of the chairman of the Finance Committee.

The first point to be made is that $5 billion that are going to be collected from our senior citizens was never considered to be an essential part of the balanced budget program. When the Senate voted for a balanced budget, there was no comment that we were going to have to raise the copays for our elderly citizens for nursing home care.

So this is something that has just been added by the Finance Committee in order, as they say, to discourage the utilization of home health care services. That is first.

So this is not part of the whole budget agreement. It was a decision by the Finance Committee to pick up $5 billion that will be paid by the frailest elderly citizens of this country, most of them between 75 and 80 years old, and primarily individuals that are on about $11,000 or $12,000 income, and primarily women. That is the profile of those that will be affected by this increase in the copay. That is first.

Second, as anyone who has ever gone through and reviewed, or had hearings on overutilization, they will find out that it isn't the patient that is overutilizing the system.

Of the groups in our society, by and large, if it is the patients that are overutilizing the system, it is the more affluent. They have the time to go down and overutilize the system. But, by and large, when you are talking about the frail elderly, it is very difficult for them to get out of their particular home, if they are in this situation, and utilize the systems. And so they are the ones who do not. But it is the doctors who are the ones that are prescribing these services. It is the doctors who are saying these home services are necessary. It is not just the elderly saying I want the services. It is the doctors who are saying these are important.

Now, we had a wonderful citizen yesterday from our neighboring area of Maryland, Marian, who makes about $7,600 a year. She said, I get home health services three times a week. It is going to be $15 a week, and I am going to run up against the limit at the end of the year. Are we in the Senate going to say that Marian should not be washed during the course of the week? She will have to reduce it to one treatment over the course of the week? Are we going to here say that we have to add the $5 billion that is going to be used for tax cuts for the wealthiest individuals? Are we going to say to that elderly person, you are not going to get washed; you are not going to be able to have your legs stretched; you are not going to be able, because you are too old and have a hip problem, to be able to wash your feet?

That is what we are talking about here. These are the kinds of services that are being provided.

Now, I was here in 1972. It was the judgment of the Congress of the United States and the administration that we wanted to encourage home health services, to try and keep people in their homes if they wanted to stay there. They have maybe an option to go to a nursing home, but if they want to stay in their homes with their friends in a neighborhood and a community, they ought to have the opportunity and the ability to do so. And so it was the judgment at that time, in order to encourage home services that provide actual savings in the total health expenditures, that we ought to do so. That is the basis for it.

Now, that is what we are running up against, Mr. President, and I am really surprised that the Finance Committee would take this step, particularly when there are other steps that are included in this legislation to restrain the doctors from prescribing this. Do we understand? There are already provisions in the legislation that we are considering in the Finance Committee to discourage the doctors from prescribing this. But, no, the Finance Committee said, that isn't enough; we are going to discourage the doctors from sending you home, but if you get home or are going to be home, then you are going to pay that 5 extra dollars.

We have the interim payment system, which is an agency-specific per capita cap, which before was limitless. Now it is limited. You have already put that in, Senators of the Finance Committee, which is going to be a further restraint. And that is to discourage the growth in the utilization of services. And you have a lump-sum percentage of payment systems like the hospitals which will be effective in 1999 that is going to further discourage this.

Our point is we have already written into the Finance Committee the targeting, where the target ought to be, and that is with doctors to provide some limitation on home health services. We are not even in the position of having tried those provisions. No, we are already saying we are going to also put the burden on the senior citizens who are receiving the home health care services. It makes no sense. It is grossly unfair. It is bad health policy. There is absolutely no reason in our attempt to achieve the balanced budget that we ought to be taking it out on the most frail individuals who are receiving, under Medicare, home health care services, Mr. President. So I hope that this measure would be struck.

I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am very proud to join Senator KENNEDY's effort. I would say to my colleagues on both sides of the aisle that this amendment is a perfect example of where the rubber meets the road. We are not now talking about adding and subtracting numbers. We are not talking about statistics in the abstract. We are talking about the effect of what we do on people's lives. We are talking about how decisions we make can crucially affect the quality or lack of quality of lives of people all across our country—in Minnesota, Massachusetts, Delaware, Oklahoma, Tennessee, you name it.

Mr. President, I just want to take on some of the arguments that have been made about why we need to go forward with this $5 copay on the home-based health care.

First of all, I have heard it argued here that $5 is not that much. But we cannot make those arguments, in all due respect. There is a huge difference between our salaries and what we can afford and what an elderly person can afford.

Now, when the argument is made, ''But, Senators, we have protection for those who are officially defined as poor,'' do you know where that definition comes from? Mollie Orshansky in 1963, Social Security, a minimal definition—a minimal definition. So now we are saying that a single elderly woman 80 years of age, who makes over $7,000 a year, she is not officially defined as poor, but we are going to charge her $5 every time for a home-based health care visit. That is outrageous. That is outrageous.

So, first of all, please, do not have any illusions, colleagues, that because we say the poor are taken care of, we really are taking care of vulnerable elderly people, because if you are a single person, single woman living at home and you are over the poverty level income—maybe you make $9,000 a year—you do not have any protection at all.

Now, is there any Senator here, Democrat or Republican, who believes that a single woman living at home making $9,000, $9,500 a year can afford to pay $5 for each home health care visit?

As to the expansion of this, in all due respect, I thought that what we were trying to do here, albeit we have not done it nearly as well as we should, is to make sure that as many elderly people as possible can live at home in as near normal circumstances as possible with dignity. We want to encourage people to be able to live at home. When one of our parents or one of our grandparents needs to have a home health visit once or twice or three times a week in order to stay at home and be independent and not have to be institutionalized, we should applaud that. It should not be surprising that this is more a part of what we do by way of investment in resources because more and more of the people in our country are living to be over 65 and 85. But if we want people to be able to stay at home and live with dignity, and we do not want people to be institutionalized, and we do not want to take away a benefit that is so important to vulnerable elderly people, even if they are over the poverty level income, which is defined in such a minimal way, we ought to for certain support this amendment.

This amendment that Senator KENNEDY and I have introduced is all about connecting this debate to people. This proposal in the Finance Committee of a $5 charge for every single home-based health care visit and support for elderly people is profoundly mistaken. Mr. President, let me repeat that. It is profoundly mistaken. Please, colleagues, admit to the fact that we may have made a mistake here and that we can do better for elderly people. Therefore, I hope that we get a huge vote for this amendment.

I yield the floor.

Mr. KENNEDY addressed the Chair.

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

Mr. KENNEDY. What do we have, 4½ minutes remaining?

The PRESIDING OFFICER. Yes, 4½ minutes.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, I will take a moment to include in the RECORD a letter from former Senator Frank Moss from the State of Utah, and I will just read the relevant sections of it.

DEAR SENATOR KENNEDY.

I was the author in 1965 of the amendment which included home health care coverage under Medicare. Congressman Claude Pepper introduced the legislation in the House. Our original legislation required seniors to pay some portion of their home health care costs out of pocket. However, the studies done by the Senate Committee on Aging and the General Accounting Office persuaded me in 1972 to work with Senator Muskie and Senator Nelson to delete the copayment provision. Our studies clearly indicated that copayments—

Now listen to this—

cost Medicare more to collect in administrative costs than they saved in the program; 2. Denied access to care and fell more heavily on those who could least afford it; 3. Pushed families into poverty and loved ones unnecessarily into institutions, resulting in increased costs to the States and Federal Government through the Medicaid Programs; and, 4, increased costs to Medicare because people put off care until they had to be hospitalized. I am writing to urge you not to repeat the mistakes that we made in the past.

Now, what has escaped in this debate, Mr. President, is the estimated budgetary impacts of this particular provision. Now, listen to this, our colleagues who are concerned about unfunded mandates. The chairman of the Finance Committee has pointed out it hits the very, very poor, frail elderly; those who qualify for Medicaid will be able to receive it and the States will pick it up. True. That is true. And that amount will be $700 million. We are putting an unfunded mandate on the States to pick up the costs of this copayment, and it is going to cost the States $700 million. And in terms of the Federal Government, because we participate in the Medicaid Program, $900 million.

That is what it is going to be just under Medicaid. So on the one hand, supposedly we are taking in the $5 billion. On the other hand, you are losing, effectively, $1.6 billion that the States and the Federal Government are providing.

Now, Mr. President, this makes absolutely no sense. They had the extensive hearings by the committee in charge, the Aging Committee, and you could have those same hearings today and you would find exactly the same results, exactly the same results. It unfairly falls on the frail elderly, and it is going to discourage people from using home health care services and go into institutions and Medicaid eventually ending up paying more and people will delay getting the kind of care they need.

Why shouldn't we first try to find out about the provisions that have been included by the Finance Committee which are going to provide for the providers the kind of prospective budgeting which we are using today for the hospitals. That is going to discourage this service. Why are we putting an additional burden that was never part of the agreement on the frailest of our society—$5 billion to use for tax cuts, tax cuts for the wealthiest individuals.

It is absolutely outrageous, Mr. President, that in the course of this week, we will be out here on Thursday or Friday providing those kinds of tax cuts for the wealthiest individuals and the people who will be paying for them are going to be the seniors, the frailest, the elderly, the widowed individuals in our society. It is bad health policy. It is unfair. And it is just a continuation evidently of the kinds of assaults that we have seen on the Medicare system. We find the Finance Committee refusing to fund the $1.5 billion that they had agreed would be funded and putting on $5 billion that was never indicated in terms of the balanced budget. That is wrong, Mr. President, and every senior knows it. Every senior will know about that.

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

There are 30 seconds remaining.

Mr. KENNEDY. I withhold that time.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. First, I wish to——

The PRESIDING OFFICER. The Senator from Delaware controls time. Who yields time?

Mr. ROTH. I yield such time as is required by the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. I thank my colleague from Delaware. I also want to compliment him for his stewardship as chairman of the Finance Committee on this bill.

First, let me just say a couple of things about the comments Senator KENNEDY made. ''We are cutting Medicare so we can pay for tax cuts for wealthy people.'' I heard that comment made 2 years ago. I heard it a lot. ''They are gutting Medicare so they can pay for tax cuts for wealthy people.''

Just an interesting footnote, the amount of expenditures, the outlays, what we are going to spend on Medicare for this 5 years that are covered by this bill is $1.248 trillion. The amount of outlays that we had in the bill 2 years ago that the President vetoed and said it was gutting, decimating Medicare, was $1.247 trillion—a one-billion-dollar difference. So the outlays are the same.

Did we make this change, this change dealing with home health care, so we could pay for tax cuts? The answer is absolutely no. What we did, in a bipartisan fashion, I think without dissent in the Finance Committee, in putting in the $5 copay on home health care, is recognize that we need to make some policy changes in home health care. This program is exploding in cost, and the reason why is quite obvious, if you look at. It is a program that is paid for 100 percent by the Federal Government. There is no copay by the beneficiary; the beneficiary does not pay a dime. There is no payment by the State. There is no copayment by anybody. It is Uncle Sam writing a check for 100 percent of the cost. There is no limit on the number of visits; you can have one visit, you can have 300 visits. So it is a program, by its very design, if Uncle Sam is going to pay for it all, obviously it is going to explode in costs, and that is exactly what has happened.

Just looking at this program, in 1990 this program cost $4 billion. In 1995, 5 years later, it cost $16 billion. It is projected next year to cost $21.1 billion. It has growth rates—in the year of 1989 this grew almost 24 percent; the next year, 53 percent; the next year, 43 percent; 1992, 41 percent; in 1993, 30 percent; in 1994, 30 percent; in 1995, 19.4 percent. This is a program that is exploding in cost.

The Finance Committee realizes this. Anybody who has looked at the facts realizes this and knows we need to change it. So the change, a very modest change, I might say, is we say the beneficiaries would have a $5 copay. That is not a lot on visits that may well cost $70 or $80, but at least it is a start. And it might have some marginal impact on behavior. Will it cost the lowest of our citizens as alleged by Senator KENNEDY and others? I doubt it, because in most cases they have Medigap policies or it is picked up by Medicaid. So in some cases those people will have coverage. But doesn't the policy of having some copay make sense? This Congress had the courage to stand up and say we should have a copay on veterans for prescription drugs of $2. Some people screamed and said, ''Wait a minute, this is a breaking of a contract,'' and so on, but we realized that prescription drugs for non-service-connected veterans was exploding in cost. So we stepped forward very marginally and set a $2 copay on prescription drugs, and it did change behavior somewhat. This will change behavior somewhat.

I urge my colleagues to read an article on the front page of the Wall Street Journal about the explosion of this program. They have home health care providers now, some of which are starting new companies—they had no experience whatsoever—out of mobile homes. If you look at the number of providers, in 1991 there were a little less than 6,000 providers; in 1995, over 9,000 providers. Look at the number of beneficiaries, the total payment costs, the number of visits—this is a program that is truly exploding in cost.

This was done in the Finance Committee, not so there could be greater tax cuts. As a matter of fact, I might mention—this is a little sore spot with me. The budget agreement said we would have $85 billion in net tax cuts. We did not end up with $85 billion; we ended up with $77 billion. So we did not even come up with the total amount of net tax cuts that the budget agreement, President Clinton and the leadership, agreed upon. So that argument, ''They did this so they could have more tax cuts'', is total hogwash. This was done in order to try to reform a program that is growing way out of control, and it was done in a bipartisan fashion. I hope we will continue to have bipartisan support. We need to have bipartisan support.

I will make a couple of other comments. One of the things that was done in the budget agreement I do not agree with. It said let's transfer home health care away from part A into part B, to make part A look solvent. That is a shell game. I do not want to have my fingerprints on it. It is in this deal. I don't have the votes to change that. But that bothers me. It doesn't keep part A solvent. Well, I guess theoretically it does. We could keep part A solvent if we said we will move all the expensive hospitals, from Tennessee west, take them out, move them out of part A and then we'll keep part A solvent. That's a little bit of a shell game.

This is one little reform on the fastest growing portion in Medicare that is real reform. It was done in a bipartisan fashion because we know we need to do something to constrain these costs. You cannot have a program that has total, 100 percent, Federal funding, has no State match, no participant match whatsoever, and no limit on the number of visits and say we hope we can constrain its costs.

So I think this is a serious vote. I urge my colleagues to vote against the Kennedy-Wellstone amendment.

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

Mr. NICKLES. I will be happy to yield.

Mr. KENNEDY. I know the Senator——

Mr. NICKLES. Not on my time, on my colleague's time.

Mr. KENNEDY. On the bill's time.

Mr. LAUTENBERG. I yield 20 minutes to the Senator from Massachusetts off the bill.

Mr. KENNEDY. Briefly, I am wondering, as a Senator who has been strongly against unfunded mandates, with the recognition here it is going to cost the States some $700 million to pick up the Medicaid portion and we are not providing that to the States, how the Senator justifies that requirement that we are placing on the States to carry this proposal through?

Mr. NICKLES. I will be happy to respond to my colleague. I think what we have right now is a program that is 100 percent Federal.

Mr. KENNEDY. On Medicaid—excuse me. The position of the chairman of the committee is that, for those who are going to fall into Medicaid, the State is going to pick up that premium and it is going to, according to the CBO, amount to some $700 million on the States. We are not providing that additional help to the States.

I am asking the Senator how he justifies that particular unfunded mandate? We heard a lot about unfunded mandates, and I want to know how the Senator responds to that.

Mr. NICKLES. I will be happy to. I think if my colleague had listened to my speech, I mentioned this home health program, which is currently 100 percent Federal with no State match. Right now the States are not paying anything. So to have this in Medicaid, where Medicaid will pick up for lower-income beneficiaries a small portion of that—I might mention the Federal Government picking up, in most cases, 60 percent, in some cases 70 percent—is not the problem.

What we are asking to do, what you are talking about, we are saying, ''Beneficiaries pay $5; pay $5 out of a total cost of a $70 visit.'' So the Federal Government is paying 65 percent, and the individual would pick up $5, and in some low-income cases, for some low-income individuals, the State might pick up 30 percent, or in some cases 40 percent, in some States maybe 50 percent of that share.

To me that does not seem unreasonable.

Mr. KENNEDY. This is the only point I make. That amounts to $700 million for the States. That amounts to a $700 million unfunded mandate; $700 million unfunded mandate to the States, according to the CBO.

I have listened to the Senator very eloquently talk about unfunded mandates, and here we are finding, according to the chairman of the Finance Committee, that for individuals who are going to fall below the poverty line, the State is going to pick that premium up, and that, according to CBO, amounts to $700 million. It will amount to $900 million by the Federal Government but $700 million to the States. I am just interested in listening to the Senator, who speaks about unfunded mandates and about the Federal Government imposing requirements on the States, here we have a beauty, $700 million you are putting on the States. That is according to CBO, because that is going to be the cost, over 5 years, for them to pick up the $5 copay.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. NICKLES. If I understood the Senator's statement, the $700 million the States would have to pick up, this is a program that will cost $121 billion next year for the Federal Government and that is growing at an unbelievable, unsustainable rate. So you are talking about a program over the next 5 years that is going to be well over $100 billion, and we are asking beneficiaries to pay $5, and in some cases the States may pick up a portion of that, maybe $700 million out of a total cost of over $100 billion. I don't find that unreasonable in any way.

Mr. KENNEDY. I thank the Senator; $700 million. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield to the Senator from Texas such time as he may require.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think that with all of the loud talking and discussion of subsidiary issues, people have by now forgotten what this whole issue is about. So I would like to give a little bit of history and then appeal to reason and responsibility on behalf of the Finance Committee on this issue.

First of all, the President proposed taking the fastest growing part of Medicare out of the trust fund and transferring it to general revenue in order to hide home health costs and claim that we have extended Medicare solvency for a decade. As a result, we have included the transfer into the budget agreement, even though I think it is totally and absolutely irresponsible and indefensible. We are simply taking the fastest growing part of Medicare, home health care, out of the Medicare trust fund and putting it into general revenue, which equates to taking a bill from one pocket and putting it in another. As a result, we can now claim that we have saved Medicare for a decade. As I pointed out when we started this debate, I could save Medicare for 100 years by taking hospital care out of the trust fund and putting it into general revenue. But, does anybody believe that that represents any kind of reform?

So, that is what started this debate. Now, having agreed in the budget agreement to make the transfer, the Finance Committee has sought to find ways to be responsible. One of the ways of being responsible is to note that there is a difference between services covered by part B and services covered by the part A trust fund. Those items that are in the part B program, which are outside the trust fund, have historically required two things. No. 1, beneficiaries pay 25 percent of the cost out of their own pocket in a part B premium; and, No. 2, they have a 20 percent copayment. That, basically, is how Medicare has worked.

Now we have followed the President's dictate and transferred home health care out of the part A trust fund into general revenues—part B or voluntary part of Medicare. But we have not instituted an immediate 25 percent payment in the part B premium to pay for 25 percent of the cost. Instead, responding to concerns raised by the President and others, we phase that up over a 7-year period. But, to address specifically the issue raised by Senator KENNEDY, the norm for types of care covered under the part B section of Medicare is for beneficiaries to pay 20 percent copayment.

Recognizing that this was a dramatic change in policy, in transferring home health care from part A to part B, rather than having a 20-percent copayment, which would be the norm, we simply asked for a $5 copayment. This is not only eminently responsible, it is clearly something we have to do. Home health care is the fastest growing item in Medicare. It used to be that you qualified for it only right after you got out of the hospital. But Congress changed the law to let people qualify for home health care whether they have been to the hospital or not. As a result, this program has exploded. It has grown exponentially, averaging some 30 to 40 percent a year in growth. It is now bigger than the total funding for the National Institutes of Health and the space program. It has become the most explosive element of Medicare.

We are not doing what we ought to do, which is to put it into part B. If we were required to do that, we would have a 25 percent premium where people would have to pay 25-percent of the cost like they do other programs under part B. Instead, we are phasing it up over 7 years. We are not requiring a 20-percent copayment, which is the norm under part B. But the one thing we have done, which is responsible, is require a $5 copayment; the logic basically being that even very small payments affect people's behavior. What we are trying to do is to provide the service for people who need it while trying to cut down on the explosive growth and the abuse of this program.

Our colleague from Oklahoma referred to a front-page article in the Wall Street Journal, but I don't think he did it justice. What that article did was outline the rampant abuse in this program, pointing out that people have even gotten out of the garbage collection business and gone into the home health care business and become almost instant millionaires.

This is a program that demands change. We have made a very, very modest change. However, if every time we try to do something responsible, we end up having people jump up and down and saying, ''You can't do anything that is responsible,'' then there is no way we are going to be able to maintain Medicare.

The program will be insolvent in 4 years under any kind of justifiable accounting. It will be a $1.6 trillion drain on the Federal Treasury over the next 10 years. The unfunded liability in Medicare is already $2.3 trillion. We have guaranteed two generations of Americans benefits, and we never set aside money to pay for the benefits. And now we hear all this screaming and hollering when we try to put a $5 copayment on the most explosive part of Medicare.

Mr. President, if we are not going to begin to do these kinds of things, it is going to be only a very short period of time until this program is going to be bankrupt. I don't know if the Senator from Massachusetts is going to be here proposing to triple the payroll tax to pay for it, but that is what is going to be required 25 years from now if we don't do something about this program.

I support this change because it is absolutely essential that we do something to stop the explosive growth in this program. I support this change because I don't think a $5 copayment is asking too much. I support this change because I don't want to have to pick up the phone 4 years from now and say to my 83-year-old mother, ''Well, mom, Medicare went broke today. Of course, I have known it was going broke for years, but I didn't have courage enough to do things, like vote for a $5 copayment on home health care.''

I believe this is something that is absolutely essential. It is the absolute minimum we should do. We should be doing a lot more. We are not because of exactly the kind of attacks that we have heard on the floor of the Senate.

The Finance Committee, on a bipartisan basis, supported this $5 copayment. It is a very small reform, but the principle of it is critically important. I think it would be a major, major setback for this bill if we lost this component. Losing this component would mean that we have simply played a shell game. We will have taken the fastest growing part of Medicare out of the trust fund to hide the explosive cost. Even though it is growing at 30 to 40 percent a year, we will have done absolutely nothing to try to deal with that explosive cost.

I know the administration says, in the sweet by-and-by, they are going to have some kind of prospective payment system, and they can't tell us what it is today, but we need to do something right now. The $5 copayment is the absolute minimum we ought to do. I urge my colleagues to stay with this very small modest reform. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield the Senator from Rhode Island 5 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I think today, as we go on to further consideration of this Medicare legislation, we are going to really see who is concerned about the future of this program and who is concerned about it being there, not just to the end of this century, which is 3 years from now, but well into the next century.

I think everybody who has taken the trouble to read the report of the trustees of Social Security and Medicare has seen the danger this program is in. It is going broke. It isn't something that is just automatically going to be there; we are used to these things. Somehow people think, ''Oh, it can't happen.'' Well, it can happen. So from the Finance Committee has come a series of proposals to do something about the security of the Medicare Program to ensure that it is going to be there, hopefully well into the next century.

What is the particular issue before us today, Mr. President? The issue is, is it all right, proper, to have a $5 copayment in some instances—in some instances, Mr. President—for those who are visited by the home health care agents, officials, the nurses and those who come in a home health care visit.

First, it is important to stress that after a hospital stay, for the first 100 visits, there is no charge. There is no charge for the first 100 visits after a hospital stay. Subsequent to that, there is a $5 charge.

Under part B, for physicians' visits, and so forth, that an individual makes, there is a 20-percent copayment, and if that were applied to the home visits, 20 percent of a $90 visit—and that is the average cost of these visits from the visiting nurses or whoever it might be—20 percent of that is $18. Is the suggestion that there be an $18 copayment, 20 percent? No, there isn't, Mr. President. There is a charge of $5, which is in the neighborhood of 6 percent. Not a 20-percent charge, a 6 percent charge. It seems to me that that is very fair. First of all, it helps reduce the cost to Medicare, obviously. Second, it clearly, to some small extent, affects the behavior of the individual who has asked for the home health care visit.

I think this is a fair charge, $5. It is not for everybody. As I say, the first 100 visits go without a charge whatsoever. One hundred visits is a lot of visits. Then it goes to this very modest, not 20-percent payment, but 6-percent payment.

Mr. President, I hope that the amendment to remove this provision in the bill will be rejected. I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes of the 15 minutes of Senator LAUTENBERG's time to myself.

Mr. President, if we have to deal with the overutilization of the home care services, let's address that issue. We understand that the person who suggests the kind of medical procedure is the doctor. We, the Finance Committee, are not making this statement in a vacuum. They have already included interim payment systems to deal with this issue for the elderly people. They already have prospective payments. They have made important changes already to address this issue.

I would think that those Members who are standing on the floor of the U.S. Senate and saying, ''Well, this is just a very modest kind of a program, and we ought to be able to afford it,'' also ought to be there to tell us how they are using the $5 billion to strengthen Medicare instead of using it for tax cuts. But, no, you haven't heard one of them say that. You haven't heard one of them say, ''We're going to reduce the overutilization so we can treat our elderly people better by additional kinds of services.'' Absolutely not. They are silent on that issue—silent on that issue.

The President of the United States had a more generous preventive program than the Finance Committee, and it was paid for without copayments. You can't have it both ways, I say to my colleagues. The President of the United States had a more generous preventive health care program for our senior citizens without the copay in the Finance Committee. No, no, they want to juggle the numbers, and that is what they have done. They have taken those billions of dollars, put an unfunded mandate on the States, required the Federal Government to max the Medicaid with $900 million and are putting that kind of $5 burden on the seniors.

Who are these people? Just about half of them earn less than $10,000; 25 percent of them are over the age of 85; two-thirds of them are women; one-third of them live alone. As any profile shows, these are the most vulnerable in our society. Mr. President, $5 might not be much when we are talking about the size of these budget items, but it is a key factor, certainly it was in the marvelous testimony that we had from a wonderful resident who talked about what $5 meant for her ability to receive services at home.

As we say, the doctors are the ones who are making those decisions. It is just amazing to me, as we are beginning this debate, to say we are going to put the $5 copay in there that the Senate made a decision not to put there as a result of extensive hearings. It was reported bipartisan, with bipartisan leadership. So they say that we are going to just wipe that out, that was never talked about during the time we were talking about a balanced budget.

The final point that I will make is that we are going to require taking $5 billion out of the pocketbooks primarily of elderly women and putting it right over here for tax cuts for the wealthiest individuals, which we will be voting on. That is what is out there. If we are going to change the process of procedures in terms of treatment of people at home, let's do it, but let's do it in sunlight, let's do it as a result of hearings, let's do it as part of the overall Medicare debate rather than the one that was done by the Senate Finance Committee.

Mr. President, I withhold the remainder of time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. There is no time left on the amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 30 seconds on the amendment.

Mr. DOMENICI. Will the Senator yield back his time? Do we have time left?

The PRESIDING OFFICER. Two and a half minutes.

Mr. DOMENICI. We yield back any time we have on the amendment.

Mr. KENNEDY. Mr. President, I will take the 30 seconds to just add to the point not only on the substance of this that we have debated but also CBO. Everyone who votes against my particular amendment will be saying to the States, $600 billion—$600 billion—in CBO spending for the poorest of the poor. This is the granddaddy of all unfunded mandates. It is going to be so interesting, all those people who make all the speeches about unfunded mandates, how they are going to vote on that.

Mr. President, I ask unanimous consent that the excellent letter from former Senator Ted Moss that is related to this subject be printed in the RECORD.

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

*Washington, DC, June 23, 1997.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR KENNEDY: The Senate is currently considering legislation to fundamentally change the nature of the Medicare program. I agree that it is time we examined Medicare; however, I would hate to see us repeat some of the mistakes we made in the past.

I was the author in 1965 of the amendment which included home health care coverage under Medicare. Congressman Claude Pepper introduced the legislation in the House. Our original legislation required seniors to pay some portion of their home care costs out-of-pocket. However, studies by the Senate Committee on Aging and the General Accounting Office persuaded me in 1972 to work with Senators Edmund Muskie (D–ME) and Gaylord Nelson (D–WI) to delete the copayment provision. Our studies clearly indicated that copayments: cost Medicare more to collect in administrative costs than they saved the program; denied access to care and fell most heavily on those who can least afford it; pushed families into poverty and loved ones unnecessarily into institutions, resulting in increased costs to the states and the federal government through the Medicaid program; and increased costs to Medicare because people put off care until they had to be hospitalized.

I am writing to you today because a provision was added in the Senate Finance Committee proposal to require seniors to pay a $5.00 copayment beginning with the very first visit, up to a total of $760. Copayments were a bad idea in my original bill in 1965 and for the same reason they are a bad idea today. I am writing to urge you not to repeat the mistakes that we made in the past.

The home care portion of Medicare is small, representing 9.7 percent of the total, and yet home care has been saddled with disproportionate cuts—fully 17 percent of all of the Medicare reductions. Most of these reductions come at the expense of home care providers, which is bad enough, but the copayment provision is particularly intolerable because it comes at the expense of consumers.

A strong case can be made for expanding the scope of home care under Medicare to cover long-term care. Approximately ten million individuals who suffer from multiple disabilities are struggling to care for themselves, going without the care that they need, or waiting until an expensive admission to a hospital emergency room is the only answer. Let's do our best to improve Medicare and not make it less responsive to the needs of our seniors.

I am writing to ask that you support an amendment by Senator Edward M. Kennedy that would delete the copayment proposal. I encourage you to support Senator Kennedy in his amendment.

Sincerely,

FRANK E. MOSS,
*U.S. Senator (ret.).*

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROTH. Mr. President, I move to table the Kennedy amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 429. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—60

| | | |
|---|---|---|
| Abraham | Frist | Mack |
| Allard | Gorton | McCain |
| Ashcroft | Graham | McConnell |
| Baucus | Gramm | Moseley-Braun |
| Bennett | Grams | Moynihan |
| Bond | Grassley | Murkowski |
| Breaux | Gregg | Nickles |
| Brownback | Hagel | Robb |
| Bryan | Hatch | Roberts |
| Burns | Helms | Roth |
| Campbell | Hutchinson | Santorum |
| Chafee | Hutchison | Sessions |
| Coats | Inhofe | Shelby |
| Cochran | Jeffords | Smith (NH) |
| Conrad | Kempthorne | Smith (OR) |
| Craig | Kerrey | Stevens |
| DeWine | Kyl | Thomas |
| Domenici | Lieberman | Thompson |
| Enzi | Lott | Thurmond |
| Faircloth | Lugar | Warner |

NAYS—40

| | | |
|---|---|---|
| Akaka | Feingold | Levin |
| Biden | Feinstein | Mikulski |
| Bingaman | Ford | Murray |
| Boxer | Glenn | Reed |
| Bumpers | Harkin | Reid |
| Byrd | Hollings | Rockefeller |
| Cleland | Inouye | Sarbanes |
| Collins | Johnson | Snowe |
| Coverdell | Kennedy | Specter |
| D'Amato | Kerry | Torricelli |
| Daschle | Kohl | Wellstone |
| Dodd | Landrieu | Wyden |
| Dorgan | Lautenberg | |
| Durbin | Leahy | |

The motion to lay on the table the amendment (No. 429) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Maryland.

Mr. SARBANES. Will the Senator from New Jersey yield me 5 minutes?

Mr. LAUTENBERG. I am pleased to yield the Senator from Maryland up to 10 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I want to commend the distinguished Senator from Massachusetts for offering the amendment just voted upon. I think the failure of this amendment dramatically illustrates one of the difficulties plaguing this spending reconciliation bill. This bill, when combined with the tax breaks approved by the Senate Finance Committee and the House Ways and Means Committee, places a disproportionate share of the burden of deficit reduction on ordinary citizens. You can't consider the spending reconciliation bill separate and apart from the tax bill we will debate later this week; the two are linked in the budget plan. And when considered in connection with the tax cuts we will soon discuss here, the spending cuts in this reconciliation bill reflect a flawed set of priorities for the Nation.

Now, this spending bill contains program reductions impacting numerous Americans, many of whom face extreme financial difficulty and are at the low end of the income scale. At the same time, the tax bill that is also part of the budget gives benefits to people at the top end of the income and wealth scale. That is the set of priorities that is reflected in this spending bill and in the budget as a whole.

Take as an example the home health copayment provision just voted upon. As the Senator from Massachusetts pointed out in discussing his amendment, 43 percent of home health users have incomes under $10,000 per year—I repeat, 43 percent have incomes under $10,000 per year. Two-thirds of the people requiring home health visits are women, and one-third of those are women living alone. The Office of Management and Budget has stated: ''We are concerned that a copayment could limit beneficiary access to the benefit.'' These are the kinds of people affected by the program cuts in this bill such as the one that the Senator from Massachusetts sought to strike—people who lie at the bottom end of the income scale, and who can ill-afford even a $5 copayment requirement.

At the same time that we require this $5 copayment and other similar cost-cutting provisions, we also include tax cuts in the budget plan. Now, given the objective of a balanced budget, the inclusion of tax cuts in the budget plan necessitates program reductions substantially greater than would be needed to eliminate the deficit if tax breaks were not part of the budget plan. Let me repeat that. Given the objective of a balanced budget, toward which we are all embarked, the inclusion of tax cuts in the budget plan requires program reductions substantially greater than would be needed to eliminate the deficit if tax breaks were not a part of the plan.

The math is simple. The budget resolution provides for $85 billion in net tax cuts over the next 5 years and $250 billion in net tax cuts over the next 10 years.

In the framework of a balanced budget, these tax cuts require additional program reductions of $85 billion over the next 5 years and $250 billion over the next 10 years over what would otherwise be required.

In other words, because you are approving tax cuts, you need to locate program reductions sufficient to offset the tax cuts. Now, the structure of the tax bills reported out by the tax committees makes it clear that those at the very top of the income pyramid will receive very substantial tax breaks—thereby absenting themselves from the deficit reduction effort, indeed shifting the burden to others—while ordinary people will carry a greater burden of program reductions to compensate for the tax breaks.

Many programs important to ordinary citizens are being reduced to pay for capital gains tax cuts, inheritance tax cuts, and IRA expansion that will benefit the wealthiest people in the Nation. The cuts in Medicare and Medicaid—such as the one the Senate just voted to sustain—are examples of such reductions in vital programs.

After looking at which Americans are affected by the program reductions in this bill, look at the distributional effects of the tax cuts that are also part of the budget. The tax bills reported from the Finance and Ways and Means Committees give the top 1 percent of the income scale the same percentage of the tax benefits as the bottom 60 percent on the income scale. At the same time, in order to make room for these tax breaks, we are reducing programs such as the one that we just voted on, which impact heavily on people who really cannot afford such reductions.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. SARBANES. Mr. President, Members need to ask themselves whether they support the priorities reflected by these choices. For every dollar lost to the Treasury in tax cuts, a dollar must be added to the Treasury through reductions in programs that are essential to many of our citizens. If there were no tax cuts, or if the tax cuts were less than what is being projected, we wouldn't have to cut the home health program. These two things—tax cuts and program cuts—have to be understood together, even though they have been separated into two bills. The fact of the matter is that the whole budget plan, in order to provide for upper income tax breaks, has to reduce programs to offset the cost of the tax breaks. And the vote we just had is one example of a program that is being reduced.

So, in assessing this reconciliation bill that is before us, we need to ask ourselves whether providing tax breaks to the very well to do should be a higher priority than adequate funding for programs essential to the well-being of ordinary citizens. On each amendment we have to ask this very question: I repeat, is it more important to give a upper income tax breaks—and, in order to compensate for them, to cut programs such as the very program that we just voted on with respect to home health copayment, a program which clearly helps people at the very lower end of the income scale—or to preserve programs vital to ordinary Americans?

I think that question needs to be asked again and again as we confront these various proposals to deal with the program reductions that are contained in the reconciliation bill that is before us.

Mr. President, I would like to address one other item with respect to what we are confronting in this budget debate because it looks to the future.

Mr. President, the Los Angeles Times just yesterday published an article entitled ''Tax-Cut Plans Could Reseed Deficit.''

I quote: ''Analysts liken House and Senate bills as time bombs set to begin detonating shortly after 2002—the target date for balancing the Federal budget.''

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

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

(See exhibit 1.)

Mr. SARBANES. Mr. President, this article points out that under versions of the tax bills approved by the Tax Committees in the two Houses, the revenue loss to the Treasury would take off, starting in the year 2003 and continuing for many years thereafter. What has happened is the tax cuts have been crafted in such a way that they artificially are held down in the early years to stay within the terms of the budget agreement. But because of back loading the principal revenue impact comes in later years.

Robert Reischauer, the former head of the Congressional Budget Office, said, and I quote him:

> . . . warns that of all the debate surrounding the House and Senate tax bills—whether the reductions are skewed too much toward the wealthy, or whether they would overheat the economy—''this is the critical issue.''

I again quote him:

If the tax bill explodes, it will explode just at the time that the baby-boom generation is beginning to retire and when we will need every penny we can get our hands on to pay for Medicaid, housing, transportation, and food stamps.

> Moreover, many of the tax cuts contained in the two bills ''would not be easily reversible'' if the Government decided that it needed the extra revenue after all to pay for these vital programs.

The figures are very stark.

> [The figures] . . . compiled by the congressional Joint Committee on Taxation show that during the first five years, the tax cuts would result in a net loss to the Treasury of $85 billion—precisely what the budget agreement has allocated . . .
>
> But the figures also show that the House tax writers have held down the initial costs by phasing in some of the reductions slowly. Once the provisions are fully in effect the cost of the package jumps dramatically.
>
> As a result, while the House provisions would drain about $18.4 billion from the Treasury in 1999, by 2007, the annual cost would soar to $41.8 billion—more than double the earlier amount.

So, in other words, you come to the end of the 10-year period upon which limitations have been placed by the budget agreement and you have the revenue loss projected on trend lines that simply take off over the second 10 years. Some estimates have placed this loss at $600 to $700 billion over the next 10 years—2008–17—compared to a $250 billion cost over the first 10 years, 1998–2007.

The same criticism applies to the Senate Finance Committee version—a little less, but not much. Moreover, as I have noted, both bills threaten the deficit through backloaded, phased-in tax cuts, which principally benefit the wealthy.

Mr. President, as pointed out in this Los Angeles Times analysis, three of the main provisions in these tax bills—IRA's, capital gains, and inheritance taxes—make heavy use of gimmicks, including delayed effective dates, slow phaseins, and timing shifts in revenue collections to minimize the revenue losses that these tax cuts cause in the early years. But then the costs begin to rise sharply, and they accelerate as you move into the outyears.

In short, these cuts place the whole deficit reduction effort at risk.

So we have two things happening here. First of all, the tax cuts are inequitable as we have just seen because you do something like this home health copayment charge at the same time that you give a tax break at the top of the income scale. Forty-three percent of the people who use home health services have incomes of less than $10,000 a year, and now will have to make a payment of up to $760 a year under this bill for home health care before they get some assistance. At the same time you are giving a tax break to people at the top end of the income scale on capital gains, on inheritance tax, and on delayed IRA's.

Second, the broader question, what Reischauer called the critical issue, is the fact that the tax bill is structured in such a way that the cost of the tax bill will simply take off after the year 2007. It will start moving out after the year 2002, the so-called balance year, and then after the year 2007 it will really take off and we will then be confronted with a major threat to our fiscal stability. As this Los Angeles

Times article said, the ''Tax-Cut Plans Could Reseed Deficit.''

The whole purpose of this exercise is to eliminate the deficit, which is not being done.

Mr. President, I yield the floor.

EXHIBIT 1

TAX-CUT PLANS COULD RESEED DEFICIT

(By Art Pine)

WASHINGTON.—Prospects for keeping the federal budget balanced after 2002, the year that President Clinton and Congress hope to eliminate the deficit, are being threatened by a ticking time bomb: the tax-cut bills that Congress will take up this week.

Under versions approved by the Senate Finance Committee and the House Ways and Means Committee, the revenue loss to the Treasury would take off, starting in 2003, and continue for many years after that, most budget experts say.

Robert Greenstein, an analyst for the nonpartisan Center on Budget and Policy Priorities, says both tax-cut measures have been crafted to keep the impact of the cuts ''artificially low'' for the first few years to stay within the bipartisan balanced-budget agreement.

Such ''back-loading'' of the maximum revenue impact, he and other fiscal experts say, could threaten the government's fiscal integrity just as it is likely to be saddled with added costs related to the aging of the baby boom generation.

Robert D. Reischauer, a Brookings Institution budget-watcher, warns that of all the debate surrounding the House and Senate tax bills—whether the reductions are skewed too much toward the wealthy, or whether they would overheat the economy—''this is the critical issue.''

''If the tax bill explodes, it will explode just at the time that the baby boom generation is beginning to retire and when we will need every penny we can get our hands on to pay for Medicaid, housing, transportation and food stamps,'' Reischauer said.

Moreover, many of the tax cuts contained in the two bills ''would not be easily reversible'' if the government decided that it needed the extra revenue after all, Reischauer contends. Adjusting capital gains for inflation, for example, would be difficult to undo

The figures are stark by any standard.

Estimates compiled by the congressional Joint Committee on Taxation show that during the first five years, the tax cuts would result in a net loss to the Treasury of $85 billion—precisely what the budget agreement has allocated for the measure's cost.

But the figures show that the House tax writers have held down the initial costs by phasing in some of the reductions slowly. Once the provisions are fully in effect, the cost of the package jumps dramatically.

As a result, while the House provisions would drain about $18.4 billion from the Treasury in 1999, by 2007, the annual cost would soar to $41.8 billion—more than double the earlier amount.

And Greenstein's group estimates that if the cost of the Ways and Means Committee package escalates at its 2004–2007 pace, the cumulative revenue loss for the second 10 years—from 2008 to 2017—would surge to $600 billion or more.

The Senate Finance Committee version of the bill is only slightly less explosive. The revenue drain rises from $19.7 billion a year in 1999 to $40.2 billion in 2007—again totaling $85 billion for the five years covered by the bipartisan budget accord.

Once more, however, calculating the second decade's cost once the provisions have been fully phased in raises the annual revenue shortfall to $74 billion in 2017, Greenstein's group estimates. For the measure's second decade—from 2008 to 2017—it swells to $550 billion.

Greenstein and Iris J. Lav, another researcher at the center, attribute the bulk of the explosion in 2004 and beyond to a handful of provisions that provide primarily benefit higher-income taxpayers: cuts in the taxes on capital gains, inheritance and individual retirement accounts.

All three provisions ''make heavy use of gimmicks—including delayed effective dates, slow phase-ins and timing shifts in revenue collections—to minimize the revenue losses [that] these tax cuts cause during the first five years,'' the two analysts argue.

''Their costs then begin to rise sharply, with the pace at which these costs increase accelerating in 2006 and 2007.''

The House provision to allow taxpayers to adjust their capital gains to eliminate the impact of inflation is particularly vulnerable to cost spiraling. Under the terms of the House bill, taxpayers would not actually begin using it to lower their taxes until 2004.

Republicans are unapologetic about the apparent trends. Senate Majority Leader Trent Lott (R–Miss.) told a news conference Friday that while Republicans deplore the possibility that the cost of the tax cut might explode, that is not the important point.

While Lott said Republicans ''agreed we would not take actions'' that would cause fiscal distress beyond 2002, he added. ''The idea of having significant tax cuts for working Americans, I love it!''

But Reischauer and other critics are less sanguine. The nation already is facing a possible revival of large budget deficits when the baby boom generation reties, they say, and the prospect that policymakers will be able to cut spending then is dubious.

Many budget analysts predict that the bipartisan accord Congress and Clinton reached this past spring already runs the risk that the budget balancing—if it actually does occur in 2002, as predicted—will be brief and that the deficit will begin widening again.

''With the vanguard of the baby boom generation having already reached age 50, the nation cannot afford to budget with this type of sleight of hand,'' Greenstein said.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes to respond to the distinguished Senator from Maryland.

First, let me suggest that there are some Senators who want tax cuts. There are some Senators who want only certain kinds of tax cuts. I have never found a tax cut that the Senator from Maryland agrees with.

So we ought to start the argument by understanding that he is against the tax cut in this bill and probably any comparable tax cuts because he just doesn't like to cut taxes.

Having said that, let me just talk about some of the arguments he made. First of all, I am very pleased that this is a bipartisan effort to create some sense out of the havoc that is going to come down on the Treasury of the United States if we don't find some way to control home health care costs under part B for the seniors of our country.

Everybody should understand, including the seniors, that what we did in this package and what is being done in the House package is very, very beneficial to the senior citizens. In each bill we took half of the home health care costs—the fastest growing program in America, on average, 30 percent—we took half of that program out of the trust fund thus eliminating imminent bankruptcy. And we said, ''Seniors, you don't have to pay for that out of your trust fund.''

We did not hear anything from seniors, or the AARP, other than the AARP said ''thank you'' because, obviously, that is a very big gift which we did in order to make that trust fund solvent. We then put that amount of money down, and said let the taxpayers pay for it. So the Finance Committee came along and said, well, if the taxpayers are going to pay for it, we ought to start putting some control in it so that it will make sense in terms of costs. And the argument has been made by those who oppose what the committee did—and I don't serve on the committee—but the argument has been made that there are many poor seniors who can't afford the deductible.

Let's repeat again. If they are poor, the Medicaid Program of America pays their deductible. Let me repeat. For poor seniors, the Medicaid Program pays their deductible.

Frankly, I believe every other aspect—I am not an expert but I asked about this—every other aspect of delivering health care, hospitals and others, all have some kind of deductible. They do not have a deductible because we like to charge people where we could afford to give them something free. But we have deductibles so that everybody understands, including the recipient, that the program costs some money. Historically it has been a pretty good way to get that message across to the users.

The last argument being made by my friend from Maryland is a New York Times article that says the tax bill, which will come up next in the Senate and which already is on the House side, except ours is a little better in terms of the middle-income people—and he has an article from a newspaper which says that the tax bill is not good for middle-income Americans.

Let me suggest to the Senate that we don't have a New York Times article. We have the Congressional Budget Office. We have the Joint Tax Committee and every major accounting firm in the country that looks at this say to the contrary. In fact, let me tell you what the overwhelming evidence is that will soon be available from the Joint Tax Committee but also what our own firm that does our work for us says. They say that, at a minimum, 75 percent of the tax cut goes to those Americans who earn $75,000 and less. That is not a bad distribution.

In fact, I believe before we are finished, when we take into account the other things the Finance Committee did, it will probably be more like 78 percent of all of the tax cuts that are in this package will go to people in America earning $75,000 and less.

Now, that leads me to believe that those who want to attack the bill because of its distribution among taxpayers just do not want any tax cuts or, and here I will say unequivocally, that the White House chooses to attack this package because they have their own method of figuring out how much the American taxpayers earn and, believe it or not, the White House criticism—I yield 5 additional minutes off the bill—believe it or not, under the White House approach taxpayers should understand—and I say this to my friend from Texas—if they own a house, they are charged under the White House approach to this with receiving rent from the house equivalent to its value. So if you earn $25,000, and you have a house worth $100,000—the rent should be $10,000 on the house—you have earned $35,000.

Now, in addition, they also say if you have any capital gains—listen to this—they impute to you the value of the capital gain.

Now, the point of it is that the Joint Tax Commission approaches it in a completely different way. Accountants who have looked at it—and I will put a letter in from a major accounting firm—tell us that, indeed, this distribution under this tax bill, which is probably made better when they put $250 into the earned-income tax receipt—that probably makes the distribution better, but they tell us it is like 75 percent for $75,000 and under.

Now, I want to try to make a point because already the American people have been told, principally by White House spokesmen, that this tax bill is for the rich. We ourselves must set about to tell the American people the truth, and that will not be easy because every time somebody stands up who opposes the capital gains tax or the like, they are going to immediately say this tax bill is not good for average Americans.

So 3 years ago, in 1993, now on 4 years, the White House used, I say to Senator GRAMM, this same method of distributing earnings in another venture with the Congress, and I want to read and quote what David Brinkley said on one of his ABC wrapups of his own show about the way the White House figures the distribution of taxes, and so let me start. All of this is a quote from him.

A few words about Federal taxes and what some of the great minds in the United States Treasury are thinking about. The Treasury likes to calculate the American people's ability to pay taxes based not on how much money we have but on how much money we might have or how much we could have. For example, a family that owns a house and lives in it, the Treasury figures that if the family didn't own the House and rented it from somebody else, the rent would be $500 a month, so it would add that amount, $6,000, to the family's so-called imputed income. Imputed income is income you might have had but don't—

Said the distinguished news man Brinkley.

They don't tax you on that amount.

Nobody taxes you on that amount.

Now, concluding:

The IRS does not play silly games like this. Instead, the Treasury calculates how much you could take away from us if you decided to. If that were the system, consider the possibilities. How about being taxed on Ed McMahon's $10 million magazine lottery.

Maybe you might get that so why not tax you based on that.

I didn't win it, you say, but you could have. The Treasury must have something better to do——

He said.

If not, there's a very good place for Clinton to cut some spending. From all of us at ABC—

He went on to say—

Thank you.

We are going to start today, Mr. President, with this little sermon. We are going to start wherever anyone will listen to us and wherever any columnists are who write about this tax bill and we are going to tell them the truth, and we are going to ask them to read the Brinkley column about how the United States Treasury Department figures out what income people are earning. And frankly, they are also going to say, I say to Senator GRAMM, that this method of figuring out what somebody was earning was dreamed up in a Reagan administration. That is true.

Mr. GRAMM. We killed the guy.

Mr. DOMENICI. But essentially you can do all of these kinds of models for different purposes. The purpose that it is being used for now is totally distorted in terms of what the American people themselves are going to realize and who is going to realize the benefits of this tax bill. So wherever anyone will listen, we will hope to get our oar in alongside of the Democrats—some, not all—who say this tax bill does not help average Americans.

Several Senators addressed the Chair.

ORDER FOR RECESS

Mr. DOMENICI. Mr. President, I still have the floor, and I want to ask unanimous consent that the Senate stand in recess from the hour of 12:30 to 2:15 for the weekly policy luncheons to meet and, further, that the recess time count equally against the remaining statutory time allotted for the reconciliation bill.

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

Mr. SARBANES. Mr. President, will the Senator from New Mexico yield for a couple of questions?

Mr. DOMENICI. Mr. President, I have been told by the chairman of the Finance Committee that they want to proceed on the amendment that is pending and so I——

Mr. SARBANES. If the Senator will yield me just 2 minutes to respond to the point that was made.

Mr. LAUTENBERG. If the Senator from Maryland will indulge me for just a minute. The chairman said proceed, and I am wondering how far we want to proceed because if we are going to suspend at 12:30 until 2:15, there is a vote pending, I assume, I ask the distinguished chairman of the Finance Committee, and would you want to establish a time certain now for voting after lunch?

Mr. ROTH. I would like to have a vote before we recess for lunch.

Mr. LAUTENBERG. There is, I understand—I ask the Chair—an hour's worth of debate evenly divided for the discussion of the waiver of the point of order.

Mr. DOMENICI. That is correct.

Mr. LAUTENBERG. If we have just had a unanimous-consent agreement to leave here at 12:30, how does one accommodate an hour's worth of time?

Mr. DOMENICI. One doesn't. One assumes that both sides would like to take less.

Mr. LAUTENBERG. Well, I think in a survey of my side, Mr. President, I cannot accommodate that notion. Now, if the Republicans are willing to give up their side, we can do it in a half hour.

Mr. DOMENICI. Mr. President, let me try this on with everybody who is here.

Senator DURBIN wants a full hour?

How much time does the chairman think he needs?

Senator DURBIN gets a half hour.

Mr. ROTH. We want the half hour.

Mr. DOMENICI. You want the half hour.

That means we could not vote until after lunch. Very well, why don't we do this. We want to use the whole time. It is 5 minutes of 12. We would then go until 12:30. That is 35 minutes and then 25 minutes upon return.

Mr. LAUTENBERG. At 2:15. So that would be at 20 to 3.

Mr. DOMENICI. The first 25 minutes upon return to the floor will be used on this amendment and then a vote will follow.

Mr. LAUTENBERG. At that time.

Mr. DOMENICI. At this point we will, the time preceding our recess will be used on the motion to waive as equally divided as possible.

Mr. LAUTENBERG. The Senator from Maryland asked for a couple of minutes before we start the debate on the motion to waive.

Mr. DURBIN. Mr. President, reserving the right to object and acknowledging the fact that the Senator from New Jersey may yield to my friend and colleague from Maryland, can we say that the calculation be based on how much time is remaining on the debate when we do break at 12:30?

Mr. DOMENICI. Yes, that is fine.

I do not want to use any additional time. I want them to use it. But if the Senator insists on 2 minutes, I am not going to object.

Mr. LAUTENBERG. I therefore yield 2 minutes of the time on the bill.

Mr. DOMENICI. May we indicate the unanimous-consent request is that as soon as the 2 minutes is up we immediately move to the 65–67 issue?

Mr. GRAMM. May I just ask a question? Are we going to have the full hour to debate this thing, so we will debate it some when we come back from lunch?

Mr. DOMENICI. Yes.

Mr. GRAMM. So nothing we are doing in going to lunch or listening to the rich people getting a tax break, none of that is limiting our time?

Mr. DOMENICI. No. He is only going to take 2 minutes on that issue.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 2 minutes.

Mr. SARBANES. I thank the Chair. Mr. President, I sought the 2 minutes because I wanted to respond to the points made by the chairman of the Budget Committee. First of all, he said, if these senior citizens had difficulty with the copayment requirement, they could get Medicaid. That is true if they are at the poverty level or below—approximately $9,000 of income or less. But you have a lot of people that are above the poverty level who cannot afford this, and who, without Federal assistance, will suffer these program reductions at the same time that those at the upper income level receive tax breaks.

Second, we are told that the distribution tables show that these tax cuts are not going disproportionally to the upper end of the scale. Well, that is because of the backloading gimmicks that are in the tax bill. In fact, the capital gains and IRA proposals on which the distribution tables are based through the year 2002 show no net revenue loss—no net revenue loss—for that 5-year period of time, which is the sole subject of the distribution table. Yet, the combined revenue loss from those provisions for the period 2003 through 2007 is $51 billion. And that is never calculated in the distribution tables, let alone the cost of these tax breaks in the years after 2007, which, as I mentioned before could well be staggering and totally destructive of the deficit reduction effort.

Moreover, as a consequence of such backloading, the upper income tax provisions account for a growing proportion of the tax package over time. In the year 2003, outside the scope of the distribution tables that the chairman was citing, they will account for 30 percent of the gross cost of the tax cuts. By 2007, the figure is 42 percent. And as you move out into the next decade, they very quickly eat up more than half of the tax breaks.

Now, the way these cuts are structured makes the Joint Tax Committee analysis an inadequate indicator of the distribution effect of these tax cuts. Because of the way they are structured, with the backloading, a 5-year distribution table shows that they are not costing any revenue. But if you carry the cuts out beyond the 5-year period, they cost very significant revenue. And by the year 2010, it is estimated that a majority of the tax cuts in the package will be directed to the upper income sector of the population.

Now, as I stated earlier, the fact that you are making those tax cuts requires you, since you are trying to reach a balanced budget, to make program cuts. So you have to look at the tax cuts reported by the committee and weigh them against the program cuts. Here you have home health care being cut, with 43 percent of the people who use home health care making under $10,000, and here you also have tax breaks given to people at the very top of the income scale. These are not the right priorities for the Nation.

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

Mr. SARBANES. I thank the ranking member for yielding me time.

Mr. DOMENICI. Mr. President, I yield all the time on this issue to the chairman of the Finance Committee, for his control under the Budget Act.

The PRESIDING OFFICER. The question pending is the motion to waive the Budget Act in response to a point of order raised against section 5611 on the grounds that it violates section 313(b)(i)(A) of the Congressional Budget Act.

Who yields time?

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I yield myself 3 minutes.

Mr. President, I asked for a waiver because I oppose the point of order on the age of eligibility in the bill. What we are proposing to do is to make the age of eligibility for Medicare conform with Social Security. The age of eligibility will change from 65 to 67, which will be phased in over a 24-year period beginning in 2003 and ending in 2027. This is a very, very modest approach to an extremely serious problem. What we are concerned about is the solvency of Medicare. The solvency of Medicare is of critical importance as part A is seen going bankrupt by the year 2001. By the year 2007, if we do not make significant change, the program is at a loss of one-half trillion dollar. What we are seeking to do here, by making the age of eligibility for Medicare reform conform with Social Security, is to take a modest step forward to assure the solvency of this most important program.

The bipartisan Commission on the Future of Medicare will be required to analyze and report back the feasibility of allowing individuals between age 62 and Medicare eligibility the option to buy into Medicare. As I said, our provision will help us extend solvency in the program. It is, I think, the very least we should do. The average life expectancy for a man or a woman over age 65 has been steadily improving. People are living longer, they are leading more vibrant lives, and this means that changing the eligibility age for Medicare will follow our natural demographic progression. In fact, around the time Medicare was enacted, the average life expectancy for men at age 65 was about 13 years, for women about 16 years. In 2030, when this provision is fully phased in, average life expectancy at age 65 for men is anticipated to be about 17 years, and 20.5 years for women. This is a very modest step to bring about significant reform. It is critically important that we show that we have the courage to take these steps on behalf, not only of our senior citizens of today, but the increasing number that will join this group in 2010 and later.

It is, in a way, very ironic that a point of order was made on this matter, because while it is true that it will not have a significant impact on revenue in the early years because of the very, very compassionate way we are introducing changing the age of eligibility, the fact is that this very modest approach will do a very, very great deal in the long term in helping the solvency of this program.

I cannot emphasize too much the importance of this change. As I pointed out, it merely conforms to what already has taken place in respect to Social Security. It is a change that will make the program significantly more solvent in the long term, and I hope the Senate will assure that this language continues as part of the agreement.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I assume the distinguished chairman will be yielding further time on his side. At this point we have no requests for time now.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, when Social Security started in the mid-1930's, the average person paying into Social Security, given the lifespan projections, was not projected to live long enough to get any of the benefits. In fact, we forget that when Social Security started, the average life expectancy of Americans was substantially less than 65.

By 1983, Social Security had become insolvent. We were in danger, in the spring, of not being able to send out July checks. We had a crisis in Social Security, so we instituted a series of reforms to try to pull Social Security back in the black. One of those reforms was raising the retirement age beginning in the year 2003. Then over the ensuing 24 years it would be raised in small increments up to 67. We did it under crisis circumstances. I remember the vote. I was a young Member of the House at the time. It was adopted on a bipartisan vote. Nobody liked it, but everybody recognized that it had to be done.

We did not make a similar change for Medicare then because Medicare was in the black. Today, our circumstances with Medicare are very, very different. If you look at this chart behind me, we currently are in this last small part of blue. Medicare is now in the process, very rapidly, of going bankrupt and the Medicare part A trust fund, which pays for hospital care, within 4 years will be insolvent. We expect Medicare, based on everything that exists now, to be a drain on the Federal Treasury of $1.6 trillion over the next 10 years.

Our problem is not only exploding costs, but the fact that we have a baby boomer generation that was born immediately after the war which made Medicare possible as all these baby boomers came into the labor market beginning in 1965. But 14 years from today, the first baby boomer retires. We will go from 200,000 people retiring a year to 1.6 million people retiring a year. The number does not change for 20 years. We go from 5.9 workers per retiree in 1965, to 3.9 workers per retiree, to 2.2 workers per retiree. We are facing a very great crisis in Medicare.

We also face a timing crisis. Everybody knows we are going to have to raise the retirement age for qualifying for Medicare as we did for Social Security. Everybody knows it is going to have to be done. If we do it today, we are going to have time for it to phase in. But if we wait another 3 or 4 years, the phase-in for Social Security will have started and we are going to be forced to tell people who have planned for retirement that their Social Security benefits and their Medicare coverage are not going to cut in when they plan to retire.

If we make this change today, people will have time to adjust. For example, I was born in 1942. If we pass this bill today, I will know that if I plan to retire at 65, that my Social Security benefits and my Medicare coverage will not cut in until I am 65 years 10 months of age. So I have 11 years, if I were looking forward to that retirement, to plan for it. If we keep waiting, knowing we are going to have to do this, we are going to end up having to force change on people when they are not ready. The advantage of doing what we have done is that it phases in between now and the year 2027, and people have time to plan for it.

It is the ultimate paradox that we have a point of order against this provision because we did this provision without claiming any savings for the budget. We made this change to save Medicare. We dedicate every penny of savings to the Medicare trust fund, we don't count a penny of the savings toward balancing the budget or funding tax cuts, and now we have a point of order against the amendment because we are not claiming savings.

So we try to answer the charge that is often made on the other side of the aisle that you are cutting Medicare to balance the budget or you are cutting Medicare to cut taxes. We try to respond to that by taking a long-term view of saving Medicare. We do not count it toward reducing the deficit, we don't let any of it be spent, and we don't let any of it be used for tax cuts. We simply are trying to do something that is fundamentally important.

Medicare is going broke. We have an unfunded liability for Medicare today of $2.6 trillion.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator has spoken for 5 minutes.

Mr. GRAMM. May I have 1 additional minute?

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

Mr. GRAMM. The plain truth is we have guaranteed two generations of Americans benefits under Medicare, and we have not set any money aside to pay for it. We have an outstanding liability of $2.6 trillion. If we wait 10 years to do something about it, it will be $3.9 trillion. If we wait 20, it will be bigger than the entire national debt of the country at $6.1 trillion. The Finance Committee, in an extraordinary act of courage, decided to make this change and not count any of it toward balancing the budget and not count any of it to pay for the tax cut but to simply do it so we will never have to call up senior citizens and tell them Medicare went broke today.

I supported this provision because I have an 83-year-old mother who depends on Medicare, and I don't want to pick up the phone someday and say, ''Mama, Medicare went broke today. I knew it was going broke, but I did not have courage enough to do anything about it.''

We have an opportunity over the next 30 years to phase up the eligibility date for Medicare to conform to Social Security, something we have already had to do under crisis circumstances. Let's not wait until the house is on fire to do something about the problem.

I urge this point of order be waived.

The PRESIDING OFFICER. Who yields time?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I don't know if I need permission from Senator LAUTENBERG on our side, but I am going to presume there is no objection to speak on behalf of our side in relation to this motion to waive. I see Senator LAUTENBERG on the floor now.

Mr. LAUTENBERG. I yield so much time, up to 10 minutes, as the Senator from Illinois requires.

Mr. DURBIN. I thank my colleague for making this legitimate.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, what is this all about? Well, you say the word ''Medicare'' and senior citizens start listening. ''Medicare, wait a minute, that is my mother's health insurance protection, it is my grandfather's health insurance. What are they doing to Medicare?''

Let me tell you for a moment, if you are 65 years old or older, listen with interest; if you are 59 years old or younger, listen to this debate with great interest. It is about you and when you will be able to retire. It is whether or not you will have the protection of health insurance in your old age.

This is the committee print for the bill we are considering, a very interesting document. There is a provision in here that we are now debating which you might overlook, but it is so important that virtually everyone under the age of 59 years in the United States of America, because of a handful of sentences here, may have to change their plans as to when they are going to retire. That is how important this debate is, that is how important this issue is, because buried in this committee print on page 161 at the bottom of the page is a Texas two-step for America's working families. A Texas two-step—step, step, slide, slide, and guess what? It raises the eligibility age for Medicare from 65 to 67.

What does that mean? It means if you were counting on retiring at age 65, taking your Social Security, taking your Medicare, guess what? You now have to wait a couple of years, or at least retire without the protection of Medicare.

Is that important to people? I think it is very important. Do you know how many people now at the age of 65 have health insurance in America? Thirty percent; 70 percent do not. They are people who count on Medicare to protect them. And the Senator from Texas offers an amendment which says, ''Oh, you can count on Medicare to protect you, just wait 2 years, wait 2 years, and then we will start protecting you.''

What if you should retire at age 60, what if your employer says to you, ''Oh, take your retirement, we'll give you health insurance protection,'' and changes his mind? Have you ever heard that story? I have heard it plenty. People who retired say, ''I'm taken care of, the company I work for gave me a watch, they gave me a health insurance plan, this is going to be great, I'm going fishing.'' Then what happens? The company is sold two or three times, a couple mergers, a couple cutbacks, and the next thing you know, they are saying, ''Sorry we have to send you a letter and tell you the bad news. No more health insurance, Mr. Retiree. Thanks for working for us for 35 years.'' And there you sit at age 61 without health insurance.

What does it cost you? I know what it costs in Chicago because we checked. About $6,000 a year if you are healthy. If you are not healthy and in your sixties, 10,000 bucks a year. Did you count on that when you decided to retire? I don't think so. And if you get stuck in that position, you know what you start doing? You start counting the days to when you will be eligible for Medicare. How many more months before I reach age 65 and Medicare is going to come in and protect me and my family and my savings? You count the days.

The Senator from Texas, who offers this amendment, wants you to keep counting for 24 months more, wants you to hang on until you are 67. Then he says we should make you eligible for Medicare.

I think that there is some question as to the statement in the committee print about its voracity. I know we are not supposed to say that, but let me just tell you why I say that. The committee says we are changing Medicare so that it tracks Social Security and, in their words, they say, ''The committee provision will establish a consistent national policy on eligibility for both Social Security, old age pension benefits and Medicare.''

Let us concede the obvious. The age to retire under Social Security in the next century is going to go up from 65 to 67. This is true. It is the basis for this amendment. But it is not the whole story, I say to my friends. The whole story is this. You can draw Social Security at age 62. You won't get as much, but that is your option. ''I will take a lower retirement, I'm leaving at 62, that's it.'' But you can't do that on Medicare. You can't draw Medicare benefits at age 62. Right now you wait until you are age 65, unless you are disabled, and the Senator from Texas wants you to keep on waiting for 2 more years to the age of 67. I don't think that is an accurate statement when they say they are going to track Social Security. They don't track Social Security.

The Senator argues this gives people time to adjust. He talks about compassion and courage. How much courage does it take to say to a senior citizen who now has developed a serious heart problem, ''Keep drawing out of your savings accounts to pay for your health insurance.''

You know what will be compassionate and courageous, not raising the age to 67. What would be compassionate and courageous is universal health care. To say no matter how old you are, rich or poor, where you live, black or white, regardless of your ethnic background, you are insured in America. You are not going to be stuck in the situation we are creating with this bill, you are not going to be stuck in the position with a terrible medical problem at age 62 and no health insurance, waiting and praying for the day when you are eligible for Medicare. That would be compassion and courage. That would be responsive to the 40 million Americans stuck today without health insurance.

Let me tell my friends, my opposition to this provision to raise the eligibility age for Medicare comes, of course, from the Democratic side, but I have some interesting allies in this battle. Eighty different corporations have written to the Members of the Senate and said, ''Please, do not do this, do not accept Senator Gramm's proposal to raise the eligibility age for Medicare to 67.'' Among them, the National Association of Manufacturers and the U.S. Chamber of Commerce.

What is a Democrat doing arguing the position of the U.S. Chamber of Commerce here? I will tell you why. These companies and their associations now offer to their employees health insurance protection until they are eligible for Medicare. That is written in the contract. If you make eligibility for Medicare age 67 instead of 65, these companies have a new liability that has been dumped in their laps by the Texas two-step, and it is a disincentive for any other company to offer this benefit to their employees. They know it costs more, and they don't know what the Senate is likely to do next year when it comes to Medicare eligibility. That is what this battle is all about.

When I look at the number of people currently covered by health insurance at age 60 and 65 in America, it is clear. Fewer companies are offering protection. More people are on their own. The expense of health insurance when you reach age 60 goes through the roof, even without any kind of medical problem. That is what this debate is all about.

You want to save Medicare? There are lots of things we need to do on a bipartisan basis. There is a Commission created by this bill to study those ways, to make sure that we do it in a sensible, fair, compassionate way. But instead, my colleague from Texas and his friends on the committee have decided, let's just take a flier, let's throw one of them out there. And the first one they throw out there does not impose any new liability on health care providers, it imposes a new burden on seniors in years to come.

Those who retire after the year 2003 have to start waiting longer and longer and longer. I say to my friends, I don't think that is what Medicare is all about. Many of the people who proposed this, frankly, don't care much for Medicare. That came out in the last campaign. Some of the candidates stood up and said, ''Yeah, I voted against it, and I'd do it again.'' I am not one of them. I didn't have the opportunity, the rare opportunity, to vote for this program. But I will tell you this, I am going to vote to protect it. I am going to vote to protect it because of what it has meant to my family. Medicare has meant to my family that you can retire not only with the dignity with Social Security, but with the protection of Medicare.

Parents don't want to be burdens on their children. They want to live independently, enjoy their lives because they played by the rules and they have paid in. To change the rules at this point, to say we are going to raise the retirement age for Medicare really reneges on a promise that was made over 30 years ago. It is the wrong way to go. We can make Medicare solvent in the long term, and we can do it in a sensible way.

At this point, I yield, for purposes of debate, to my colleague from California, Senator BOXER.

Mr. LAUTENBERG. Mr. President, I ask how much time does the Senator from Illinois have remaining that I gave him?

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. LAUTENBERG. He has spoken for 10 minutes.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, let me first point out that when our colleague talks about people waking up and finding that age of eligibility is changed by 2 years, let me say that those people are 37 years old today. It will be between now and the year 2027 that this retirement age will phase up.

One of the reasons we want to do this now is we don't want people to wake up and discover that this has happened and they have not had time to plan on it. By doing it now, this will affect the full 2-year increase; it will affect only people born after 1960. That is, they are going to have 30 years in which to change their life's plan in order to accommodate this change.

Our colleague acts as if tomorrow they are going to wake up and discover that the eligibility has changed.

Let me remind my colleague, unless the note I have been passed is incorrect, that in 1983, on March 24, our colleague voted to raise the retirement age for Social Security, is that correct?

Mr. DURBIN. Will the Senator yield?

Mr. GRAMM. I yield for an answer to that question.

Mr. DURBIN. The amendment offered was the Pickle-Pepper amendment in the House of Representatives. I voted with Mr. Pepper and against raising the retirement age.

Mr. GRAMM. You voted for final passage on the bill on March 24. My point is, we are going to have to do this. Everybody knows we are going to have to do it. Should we wait until there is a crisis so that we will literally do what the Senator from Illinois says and make the change so it will go into effect immediately?

That is what is going to happen when you look at the exploding deficit of Medicare. We will have a $1.6 trillion loss to the Treasury in trying to maintain the program in the next 10 years alone.

Our colleagues are not telling us that by the year 2025 when we will be going into the final phase up, we will have to triple the payroll tax—triple the payroll tax—to pay for Medicare if we don't begin to make changes. They are not proposing today to triple the payroll tax. They are simply saying, ''Don't act now, wait until there's a crisis; wait until Medicare is flat on its back and then make the change.''

Let me tell you why we can't do that. We can't do it because the phase in is already underway in Social Security, something that both Houses of Congress approved, and the President signed. It was voted for on a bipartisan basis raising the effective retirement age for full retirement benefits to 67. That is already the law of the land, and that phase up begins very slowly, a matter of months each year, very slowly, but it begins in the year 2003.

If we wait, we are going to end up doing what our colleague accuses us of today. But the truth is, by doing it now, for those who will have to wait an additional 2 years, they will have 30 years to adjust. This is the responsible way to do it. It is the way it should be done, and I hope it will be done. If we don't do it, we will be back here in 3 or 4 years doing it under crisis circumstances and doing it immediately.

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

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent that we set aside temporarily the motion before us to consider a technical amendment that has been cleared on both sides.

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

AMENDMENT NO. 431

(Purpose: To provide for managers' amendments)

Mr. ROTH. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. MOYNIHAN, proposes an amendment numbered 431.

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

The PRESIDING OFFICER. Is there objection?

Mr. FAIRCLOTH. Reserving the right to object.

The PRESIDING OFFICER. Does the Senator object?

Mr. FAIRCLOTH. I do object.

The PRESIDING OFFICER. The objection is heard. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. FAIRCLOTH. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. The objection is withdrawn.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LAUTENBERG. Mr. President, none of this time is charged, I assume, to the waiver amendment that the Senator from Delaware has proposed?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROTH. Mr. President, as you can imagine, drafting a piece of legislation this large in such a short timeframe and having to incorporate over 50 amendments resulted in some technical errors and omissions. The items contained in this amendment are those which are technical in nature, and replace inadvertent omissions or are necessary to bring the legislation into compliance with the committee's budget instructions.

The amendments accepted or adopted in the committee markup were done so with the proviso they would not bring the committee out of compliance with its instruction.

Therefore, now that the Congressional Budget Office has completed scoring of the entire package, certain revisions to these amendments are necessary. A description of the items contained in this amendment is located on each Senator's desk.

I ask this amendment be adopted and be considered original text for the purpose of amendment.

The question is on agreeing to the amendment.

The amendment (No. 431) was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay it on the table.

The motion to lay on the table was agreed to.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:32 p.m., recessed until 2:19 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

## BALANCED BUDGET ACT OF 1997

The Senate continued with the consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, for the information of all Senators, approximately 6 hours remain for debate with respect to the Balanced Budget Act, basically equally divided. There are approximately 30 minutes remaining on the motion to waive the Budget Act with respect to the Medicare age increase issue. Therefore, a vote will occur on that motion to waive around 3 o'clock, or maybe shortly before that.

As was mentioned in both luncheons today, the Senate will remain in session this evening until all time is consumed. If any Senator intends to offer an amendment after the time has expired, they will be required to do so this evening. It will then be my intention to stack all votes on the amendments and the final passage, after the time has expired this evening, until approximately 9:30 a.m. on Wednesday.

So all debate time and all amendments will be offered tonight, and then we will begin a series of votes at 9:30. We don't know exactly how many amendments that could entail. It could be as few as five, I hope. It could be many more than that. We will begin voting at 9:30 and continue voting until we complete all the amendment votes and final passage. Then, of course, we will go to the taxpayers' relief act.

Senators can expect additional votes today and a series of votes beginning at 9:30 on Wednesday, the last of the series being final passage of the Balanced Budget Act.

Mr. CHAFEE. Mr. President, I would like to ask the majority leader a question. As I understand it, suppose somebody has an amendment this afternoon and is prepared to go to a vote this afternoon; would there be a vote this afternoon?

Mr. LOTT. Yes, there can certainly be votes this afternoon. In fact, we expect votes throughout the afternoon, probably until all time has expired, or around 8:30 this evening. So you could have votes at least until 7 or 7:30, and then we will put the rest of the votes over until 9:30.

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

MOTION TO WAIVE THE BUDGET ACT

Mr. CHAFEE. Mr. President, I would like to address the matter before us, and I believe the time is running anyway, is it not?

The PRESIDING OFFICER. Time is being charged against the motion to waive the Budget Act, which is the pending business.

Mr. CHAFEE. I ask that I might have 5 minutes on Senator ROTH's time on this matter.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Rhode Island is recognized to speak for up to 5 minutes.

Mr. CHAFEE. Mr. President, there is an organization set up to report to the Congress every year on the status of Social Security and the status of Medicare. This group is a very distinguished group. It consists of the Secretary of the Treasury; the Secretary of Health and Human Services; the Secretary of Labor, or Acting Secretary of Labor; and the Commissioner of Social Security, or the Acting Commissioner of Social Security. These are the people, plus two members of the public. I might say, of the first four—and there are six in all—four of these are Democrats. They are not Republicans; they are Democrats. They submitted a report to us in the Congress in April of this year. What did they say?

As we have reported for the last several years, one of the Medicare trust funds, the Hospital Insurance—

The HI, the so called part A.

will be exhausted in 4 years without legislation that addresses its fiscal imbalance.

This isn't a bunch of right wing Republicans saying there is trouble