

Senator from Oklahoma is on the floor, I wished to say how grateful I am for his courage in supporting the bipartisan commission's report on the deficit and the debt. His vote for that, as well as the votes of Senators CRAPO, DURBIN, and CONRAD, in 22 months in this place, this is the first time I have felt any confidence that we may actually be moving in the right direction. I wish to thank him for casting that vote. No one who voted for that, Democratic Senator or Republican Senator, agrees with everything that is in the package. But what we do agree with is that we need a plan to get this right. That is what we need to do.

There is a lot of talk in this town about whose side are you on. I hear that all the time. I will tell one quick story from the campaign trail. Every single townhall meeting I had, the issue of the deficit and the debt came up, profound anxiety among the people of my State that we are going to leave less opportunity, not more, to our kids and grandkids. I share the Senator's view that time is short. If we don't make these decisions, the capital markets are going to make them for us. It will not be like that frog in the boiling water. One morning, one day somebody in the capital markets is going to wake and say: I am not going to buy your paper anymore at that price. We are going to see our interest rates go through the roof, and we will see economic turmoil far worse than we have been going through now, the worst recession since the Great Depression.

I would talk about this in these meetings, about how we need to come together, Republicans and Democrats, and actually start solving the problems. The frustration people had—Democrats and Republicans, Tea Party people, unaffiliated voters—at our inability to work together to create solutions. I would say we have a moral obligation to the next generation to get this straightened out so we don't constrain their choices. The problem is even more urgent for our kids and grandkids.

I was lucky enough that my daughters came with me on a lot of these trips. They sat through a lot of these townhall meetings. I remember one morning my daughter Caroline followed me out. She is now 11 years old. She had heard about the constraints we were putting on the next generation. She tugged at my sleeve on the sidewalk and she said: Daddy, just to be clear—she was making fun of me because I overuse that expression—I am not paying that back.

When people ask me the question, whose side am I on, I am on Caroline's side. I am on the side of the 850,000 children going to Denver's public schools who don't deserve to be left what we are at risk of leaving them.

I want the Senator to know I will work with anybody, Republican or Democrat, in this Chamber in the time

that I am here to make sure we are not that generation of Americans that leaves less, not more, behind.

I wish to talk briefly tonight about the discussions around taxes. I have been a strong supporter of a long-term extension of the middle-class tax cuts, estate tax reform that supports our small businesses, farmers and ranchers and extension of unemployment insurance for Coloradans who are struggling to find their way during this difficult economy.

Over the last year, in the very townhall meetings I was just talking about, Coloradans over and over have shared their frustration with me about Washington's complete failure to come to an agreement and by both parties' lack of willingness to even discuss a compromise. I could not agree with them more.

The bottom line is simple and straightforward. These tax cuts will expire in less than 4 weeks if we do nothing. If we do nothing, hundreds of thousands of Coloradans will see a tax increase and thousands more will lose their unemployment benefits in the worst recession since the Great Depression. This is completely unacceptable to them and to me.

If I were writing this bill, it would look different than the compromise. It would propose a 1-year extension of all tax cuts. I said that during the campaign because I felt it was important for us to have the time to figure out how we were actually going to pay for these tax cuts. So it would be for 1 year. It would be a longer term extension for the middle class. I would raise the exemption level for the estate tax but keep rates at the 2009 level.

I wished to say that, at the end of the day, while I am going to look for opportunities to make improvements to this framework and listen to other people's ideas as well, I intend to support the compromise. I am not convinced delaying this legislation until next year will produce a better bill. I am convinced it will create huge uncertainty for people all over my State and around the country, at a time when the last thing we can afford is uncertainty. The reality is, the new Congress might likely produce something far worse than the agreement that has been reached.

Whenever I cast a vote, I do so focused on the danger caused by our medium-term and long-term debt. That is why I have supported multiple measures to get spending under control. In this case, I think it would be far worse to weaken a fragile economic recovery by letting the middle-class tax cuts expire, throwing thousands of Coloradans off the unemployment rolls simultaneously.

Moving forward, we desperately need a more constructive and honest conversation about how we are going to turn our economy around for the long term. I will work with anyone—Demo-

crat or Republican—to develop a Tax Code that actually encourages innovation, lifts innovation in the United States, builds back our middle class, and brings jobs back to Colorado and the rest of the country.

I will close by saying this: We face grave challenges, both economic and fiscal, at this moment in our country's history. The message I got loudly and clearly over the last 22 months is that people want to see us working together and solving problems. That is what I intend to do.

#### TAXPAYER ASSISTANCE ACT OF 2010

Mr. BENNET. Mr. President, I ask unanimous consent that the Finance Committee be discharged from H.R. 4994, the Taxpayer Assistance Act of 2010, and that the Senate then proceed to its immediate consideration.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4994) to amend the Internal Revenue Code of 1986 to reduce taxpayer burdens, enhance taxpayer protection, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNET. Mr. President, there is a substitute amendment at the desk, and I ask that the amendment be considered and agreed to; that the bill, as amended, be read the third time; and that after the reading of the Budget Committee pay-go letter, the bill, as amended, be passed; and that the title amendment, which is at the desk, be considered and agreed to; further, that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4742), in the nature of a substitute, was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 4743) was agreed to, as follows:

Amend the title so as to read: "An Act to extend certain expiring provisions of the Medicare and Medicaid programs, and for other purposes."

The PRESIDING OFFICER. The clerk will read the pay-go letter.

The assistant legislative clerk read as follows:

Mr. Conrad: This is the Statement of Budgetary Effects of PAYGO Legislation for H.R. 4994, as amended.

Total Budgetary Effects of H.R. 4994 for the 5-year Statutory PAYGO Scorecard: net increase in the deficit of \$2.278 billion.

Total Budgetary Effects of H.R. 4994 for the 10-year Statutory PAYGO Scorecard: net decrease in the deficit of \$17.276 billion.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this Act, as follows:

ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR H.R. 4994, AN ACT TO EXTEND CERTAIN EXPIRING PROVISIONS OF THE MEDICARE AND MEDICAID PROGRAMS, AND FOR OTHER PURPOSES (AS INTRODUCED ON DECEMBER 7, 2010—ERN10381; ASSUMED ENACTMENT LATE DECEMBER 2010)

[By fiscal year, in millions of dollars]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011– 2015	2011– 2020
Total On-Budget Changes .....	12,035	7,038	299	–742	–1,849	–2,893	–3,626	–4,037	–4,336	–4,662	–16,782	–2,772
Less:												
Current-Policy Adjustment for Medicare Payment to Physicians <sup>1</sup> .....	9,624	4,881	0	0	0	0	0	0	0	0	14,505	14,505
Statutory Pay-As-You-Go Impact .....	2,412	2,157	299	–742	–1,849	–2,893	–3,626	–4,037	–4,336	–4,662	2,278	–17,276

Notes: Components may not sum to totals because of rounding. This legislation would freeze Medicare's payment rates for physicians' services at the current level through the end of December 2011 and extend many other expiring provisions in Medicare. Additionally, the legislation would limit the aggregate amount recovered from reconciliation of income used for determining eligibility for tax credits provided through health insurance exchanges.

<sup>1</sup> Section 7(c) of the Statutory Pay-As-You-Go Act of 2010 provides for current-policy adjustments related to Medicare payments to physicians.

Sources: Congressional Budget Office, Staff of the Joint Committee on Taxation.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4994), as amended, was read the third time and passed, as follows:

#### H.R. 4994

*Resolved*, That the bill from the House of Representatives (H.R. 4994) entitled “An Act to amend the Internal Revenue Code of 1986 to reduce taxpayer burdens and enhance taxpayer protections, and for other purposes.”, do pass with the following amendments:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Medicare and Medicaid Extenders Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—EXTENSIONS

Sec. 101. Physician payment update.

Sec. 102. Extension of MMA section 508 reclassifications.

Sec. 103. Extension of Medicare work geographic adjustment floor.

Sec. 104. Extension of exceptions process for Medicare therapy caps.

Sec. 105. Extension of payment for technical component of certain physician pathology services.

Sec. 106. Extension of ambulance add-ons.

Sec. 107. Extension of physician fee schedule mental health add-on payment.

Sec. 108. Extension of outpatient hold harmless provision.

Sec. 109. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.

Sec. 110. Extension of the qualifying individual (QI) program.

Sec. 111. Extension of Transitional Medical Assistance (TMA).

Sec. 112. Special diabetes programs.

#### TITLE II—OTHER PROVISIONS

Sec. 201. Clarification of effective date of part B special enrollment period for disabled TRICARE beneficiaries.

Sec. 202. Repeal of delay of RUG-IV.

Sec. 203. Clarification for affiliated hospitals for distribution of additional residency positions.

Sec. 204. Continued inclusion of orphan drugs in definition of covered outpatient drugs with respect to children's hospitals under the 340B drug discount program.

Sec. 205. Medicaid and CHIP technical corrections.

Sec. 206. Funding for claims reprocessing.

Sec. 207. Revision to the Medicare Improvement Fund.

Sec. 208. Limitations on aggregate amount recovered on reconciliation of the health insurance tax credit and the advance of that credit.

Sec. 209. Determination of budgetary effects.

#### TITLE I—EXTENSIONS

##### SEC. 101. PHYSICIAN PAYMENT UPDATE.

Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraph:

“(12) UPDATE FOR 2011.—

“(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2011, the update to the single conversion factor shall be 0 percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2012 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2012 and subsequent years as if subparagraph (A) had never applied.”.

##### SEC. 102. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

(a) EXTENSION.—

(1) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), and sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111-148), is amended by striking “September 30, 2010” and inserting “September 30, 2011”.

(2) SPECIAL RULE FOR FISCAL YEAR 2011.—

(A) IN GENERAL.—Subject to subparagraph (B), for purposes of implementation of the amendment made by paragraph (1), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2011, the Secretary of Health and Human Services shall use the hospital wage index that was promulgated by the Secretary of Health and Human Services in the Federal Register on August 16, 2010 (75 Fed. Reg. 50042), and any subsequent corrections.

(B) EXCEPTION.—Beginning on April 1, 2011, in determining the wage index applicable to hospitals that qualify for wage index reclassification, the Secretary shall include the average hourly wage data of hospitals whose reclassification was extended pursuant to the amendment made by paragraph (1) only if including such data results in a higher applicable reclassified wage index. Any revision to hospital wage indexes made as a result of this subparagraph shall not be effected in a budget neutral manner.

(3) ADJUSTMENT FOR CERTAIN HOSPITALS IN FISCAL YEAR 2011.—

(A) IN GENERAL.—In the case of a subsection (d) hospital (as defined in subsection (d)(1)(B) of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which—

(i) a reclassification of its wage index for purposes of such section was extended pursuant to the amendment made by paragraph (1); and

(ii) the wage index applicable for such hospital for the period beginning on October 1, 2010, and ending on March 31, 2011, was lower than for the period beginning on April 1, 2011, and ending on September 30, 2011, by reason of the application of paragraph (2)(B);

the Secretary shall pay such hospital an additional payment that reflects the difference between the wage index for such periods.

(B) TIMEFRAME FOR PAYMENTS.—The Secretary shall make payments required under subparagraph (A) by not later than December 31, 2011.

(b) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) is amended by inserting “in fiscal years 2008 and 2009” after “For purposes of implementation of this subsection”.

##### SEC. 103. EXTENSION OF MEDICARE WORK GEOGRAPHIC ADJUSTMENT FLOOR.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before January 1, 2011” and inserting “before January 1, 2012”.

##### SEC. 104. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395(g)(5)) is amended by striking “and ending on” and all that follows through “2010” and inserting “and ending on December 31, 2011”.

##### SEC. 105. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w-4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w-4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), and section 3104 of the Patient Protection and Affordable Care Act (Public Law 111-148) is amended by striking “and 2010” and inserting “2010, and 2011”.

##### SEC. 106. EXTENSION OF AMBULANCE ADD-ONS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i), by striking “2011” and inserting “2012,”; and

(2) in each of clauses (i) and (ii), by striking “January 1, 2011” and inserting “January 1, 2012” each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), as amended by sections 3105(b) and 10311(b) of Public Law 111-148, is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended by striking “2011” and inserting “2012”.